6381

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 108.

JAMES BRISTOL, AS EXECUTOR OF THE LAST WILL AND TESTAMENT OF SOPHIA M. BRISTOL, DECEASED, PLAINTIFF IN ERROR,

vs.

WASHINGTON COUNTY, STATE OF MINNESOTA.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

FILED AUGUST 12, 1895.

(16,940.)

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1 UNITED STATES OF AMERICA:

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In re Claim of Washington County, Minnesota.

Pleas before the honorable the judges of the circuit court of the United States of America for the district of Minnesota, third division, of the June term, 1896, of said court, held in the city of St. Paul, in said district, in the year of our Lord one thousand ninety-six, 1896.

DISTRICT OF MINNESOTA, *ss*:

Be it remembered that on the 23rd day of May, A. D. 1895, the following transcript of record from the probate court of Ramsey county, State of Minnesota, was filed of record in said court, to wit:

2 To the probate court of the county of Ramsey, State of Minnesota:

The petition of James Bristol, of Gainesville, in the county of Wyoming and State of New York, respectfully represents that Sophia M. Bristol, late of the town of Gainesville, county of Wyoming, in the State of New York, lately died testate in said Wyoming county, in the said State of New York; that James Bristol was by the last will and testament of said deceased named and appointed as executor of said will.

That the said last will and testament of said deceased was on the 27th day of August, 1894, duly admitted to probate in and by the surrogate's court of Wyoming county, State of New York, and letters testamentary thereon duly issued to said James Bristol, executor aforesaid.

That the said deceased died possessed of certain personal property situated in the said county of Ramsey, the value whereof does not exceed the sum of $5,000.00, and also real estate in Washington, Chisago, and Isanti counties, in the State of Minnesota, on which the said will may operate.

That your petitioner herewith presents a duly authenticated copy of said will, and the probate thereof, and of letters testamentary issued thereon by the surrogate's court of the county of Wyoming, State of New York, and requests that the said will may be allowed by and admitted to probate in this court, and letters testamentary issued thereon to said James Bristol, as executor, in accordance with the statutes in such case made and provided.

The names and residence- of all persons interested in the estate of said deceased, either as legatee-, heirs-at-law, or next of kin of said deceased, are as follows, viz:

Names.	Residence-.
James Bristol, aged 57, husband & legatee.....	Gainesville, Wyoming Co., New York.
Charles E. Bristol, aged 31 years, son & legatee.....	Gainesville, Wyoming Co., New York.
James E. Bristol, aged 13 years, son and legatee....	Gainesville, Wyoming Co., New York.
Rufus C. Jefferson, conditional legatee	St. Paul, Ramsey Co., *New York.*

3 Dated this 24th day of September, A. D. 1894.

JAMES BRISTOL.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

James Bristol, the above petitioner, being duly sworn, doth depose and say that the foregoing petition is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

JAMES BRISTOL.

Subscribed and sworn to before me this 24th day of September, 1894.

EMERSON HADLEY,

[NOTARIAL SEAL.] *Notary Public, Ramsey County, Minn.*

(Endorsed:) Petition to admit foreign will to probate. Filed this 25th day of September, 1894. Frank Robert, Jr., clerk of probate.

4 At a surrogate's court held at the surrogate's office, in the village of Warsaw, in and for the county of Wyoming, on the 27th day of August, 1894.

Present: Andrew J. Lorish, surrogate.

In the Matter of Proving the Last Will and Testament of SOPHIA M. BRISTOL, Deceased.

Satisfactory proof by affidavit having been made and filed of the due service of the citation heretofore issued in this matter, duly requiring the husband, heirs-at-law, next of kin, and all persons in being who take an interest in any portion of the real or personal property of said deceased under the provisions of the said last will and testament, and the executor and trustee named therein, to appear in this court on the 27th day of August, 1894, at 10 o'clock in the forenoon, to attend the proof and probate of the last will and testament of Sophia M. Bristol, late of the town of Gainesville, in the county of Wyoming and State of New York, deceased, bearing date the 4th day of April, 1888; and James B. Bristol, the executor in said will, the petitioner herein, having appeared in person and by Byron Healy, his attorney, in support of the proof of the same, and George W. Bottsford, the special guardian duly appointed of James C. Bristol, an infant, heir-at-law, and next of kin of said

deceased, having appeared for said infant, heir-at-law, and next of kin of said deceased, *having appeared for said infant*, and no other persons or parties having appeared herein, and witnesses having been examined and proofs taken, and the said surrogate having heard the proofs and allegations of the parties and mature deliberation being had thereon, and the surrogate having inquired particularly into all the facts and circumstances and being satisfied
5 of the genuineness of said will and the validity of its execution, and the probate of said will not having been contested—

It is adjudged and decreed that said instrument in writing, purporting to be the last will and testament of the said Sophia M. Bristol, deceased, was duly and properly executed; that the same is genuine and valid, and that the said Sophia M. Bristol, deceased, at the time of executing the same was in all respects competent to make a last will and testament and to devise real estate and was not under any restraint or undue influence; and this court doth further order and decree that the said last will and testament and the proofs and examinations taken in respect to the same be recorded, and that the said instrument be admitted to probate, and that the same be, and hereby is, established as a will valid to pass real and personal estate, and the said proofs to be sufficient; which said last will and testament and the proofs taken thereupon are as follows—that is to say:

I, Sophia M. Bristol, of the town of Gainesville, in the county of Wyoming and State of New York, do make, publish and declare this my last will and testament, in manner following, that is to say:

1st. I give, devise and bequeath to my husband, James Bristol, one-tenth part of all my property, both real and personal.

2nd. All the rest, residue and remainder of my property, both real and personal, I give, devise and bequeath to the said James Bristol in trust and order and direct the said James Bristol as such trustee, to sell, convey or exchange, manage, control, invest and reinvest one-half part of such remainder, real and personal, or the proceeds thereof at the best rates and in the best manner and to the best advantage that he can and apply the use, income, rents and profits thereof, or so much thereof as he may deem necessary or proper under the circumstances, for the care, support, education, maintenance and comfort of my son Charles E. Bristol until he shall arrive at the age of thirty years, and when the said Charles E. Bristol shall arrive at the age of thirty years, I order and
6 direct my aforesaid trustee to put, use and keep the said one-half of said remainder in such property and in such manner as my said trustee shall think will produce the greatest income, interest, rents and profits, and pay over to the said Charles E. Bristol, annually all of such income, interest, rents and profits until the same shall be transferred and conveyed to him as hereinafter provided, or until his death; but in case my said trustee shall at any time after the said Charles E. Bristol becomes thirty years of age deem it better for the interest and welfare of the said Charles

E. Bristol to have the said one-half part of said remainder and all remaining income transferred and conveyed to the said Charles E. Bristol, then and in that case the said trustee may and shall transfer and convey all of the one-half of said remainder, and remaining income thereof to the said Charles E. Bristol, absolutely and forever.

I order and direct the said James Bristol as such trustee to sell, convey or exchange, manage, control, invest and reinvest the other half part thereof, at the best rates and in the best manner and to the advantage that he can, and apply the use, income, rents and profits thereof, or so much thereof as he may deem necessary or proper under the circumstances, for the care, support, education, maintenance and comfort of my son James C. Bristol, until he shall arrive at the age of thirty years, and when the said James C. Bristol shall arrive at the age of thirty years, I order and direct my aforesaid trustee to put, use and keep the said other one-half of said remainder in such property and in such manner as my said trustee shall think will produce the greatest income, interest, rents and profits, and pay over to the said James C. Bristol, annually, all of such income, interest, rents and profits until the same shall be transferred and conveyed to him as hereinafter provided or until his death, but in case my said trustee shall at any time after the said James C. Bristol becomes thirty years of age deem it better for the interest and welfare of the said James C. Bristol to have the
7 said other one-half part of said remainder and all remaining income thereof transferred and conveyed to the said James C. Bristol, then and in that case the said trustee may and shall transfer and convey all of the said other one-half of said remainder and remaining income thereof to the said James C. Bristol, absolutely and forever.

If either of my said sons shall die before his share of or interest in my property real and personal, shall be conveyed to him by said trustee as herein provided, without leaving any descendant or descendants, all of the interest and share in my estate hereinbefore devised, bequeathed and given to the one so dying shall immediately vest in my trustee herein appointed, and my said trustee shall thereupon hold, manage, sell, convey, exchange, invest and reinvest the same, or the proceeds thereof, to the best advantage he can for the survivor of my said two sons and my said estate; the same in all respects and under the same trusts and powers which my said trustees holds and may exercise with reference to the other half of the said trust estate, real and personal. But if my said sons, or either of them shall die leaving a descendant or descendants before his share shall be conveyed to him by the said trustee as herein provided, then the share or shares of the one, or ones so dying shall immediately, upon the death of the other one or ones so dying, vest in the children or descendants of the one or ones so dying.

3rd. I hereby authorize and empower my said trustee to contract, sell or convey any or all my real estate wherever the same may be situated, and I authorize and empower my said trustee to sell, ex-

change or convey any or all my real estate and personal property in order to comply with and fulfill the trusts herein contained, and I authorize and empower him to invest, purchase, exchange, or sell and convey my property real and personal, which he may deem to the advantage of my said children during the continuance of said trusts; and I authorize and empower my said trustee during the continuance of said trusts to loan any money or moneys upon such legal terms and securities or mortgages as he shall deem best for the interests of my said sons, respectively, and estate, in any
8 State of the United States, and to loan, invest, sell, exchange any property, real or personal, in any State of the United States, and to do all things which he deems necessary for the proper and faithful execution of said trusts wheresoever my said trustee shall deem best for the interests of my said sons, during the continuance of the said trusts.

4th. If my said trustee shall die or become legally incapable of acting as such trustee as in this will appointed and situated, I do hereby constitute and appoint such person or persons as trustee or trustees under this will in the place and stead of James Bristol, as my said trustee, the said James Bristol, shall by his duly executed last will and testament, constitute and appoint as trustee or trustees, to execute the trusts and powers herein granted to, and vested in my said trustee, James Bristol; and I hereby authorize and empower the said James Bristol to constitute and appoint by his last will and testament such person or persons as he shall deem fit and proper to be trustee or trustees in his place and stead, to act as such trustee or trustees in case the said James Bristol shall die, or become legally incompetent or incapacitated to act as such trustee.

And fourthly, I hereby constitute and appoint my husband, the said James Bristol, sole executor of this my last will and testament hereby revoking all former wills by me made.

If both of my said sons shall die neither of them leaving any descendants before my said trustee shall convey the trust property to them respectively as herein provided, then and in such case upon their death, or the death of the survivor of them, the said trust estate and property shall immediately vest in and become the property of my brother Rufus C. Jefferson, or his heirs absolutely and forever.

In witness whereof, I have hereunto set my hand and seal this 4th day of April in the year of our Lord one thousand eight hundred and eighty-eight.

SOPHIA M. BRISTOL. [SEAL.]

9 The above-written instrument was at the date thereof signed, sealed, published, and declared by the said Sophia M. Bristol, the testatrix therein named, as and for her last will and testament, in presence of us, who, at her request and in her presence and in the presence of each other, have subscribed our names as witnesses thereto.

CHAS. W. BAILEY,
Warsaw, N. Y.
CHARLES J. GARDNER,
Warsaw, N. Y.

10 Surrogate's Court, Wyoming County.

In the Matter of Proving the Last Will and Testament of SOPHIA M. BRISTOL, Deceased.

WYOMING COUNTY, *ss:*

Charles W. Bailey and Charles J. Gardner, being first duly sworn in open court, upon their several corporal oaths each doth depose and say that they are subscribing witnesses to the last will and testament of Sophia M. Bristol, late of the town of Gainesville, in the county of Wyoming and State of New York, deceased; and these deponents do further say that the said Sophia M. Bristol, deceased, did, in the presence of each of these deponents, subscribe her name at the end of the instrument in writing which is now here shown to these deponents and which purports to be the last will and testament of the said deceased and which bears date on the 4th day of April, one thousand eight hundred and eighty-eight.

The said deceased did at the time of subscribing her name to the said instrument as aforesaid declare the same to be her last will and testament; and these deponents did thereupon subscribed and sign their own respective names at the end of said instrument as attesting witnesses to the execution thereof, each at the request of the said deceased and in her presence and in the presence of each other; that the said deceased at the time of so subscribing her name to said instrument as aforesaid and publishing said instrument as aforesaid was upward of twenty-one years of age and a citizen of the United States; that she appeared to be, and deponents believe she was, of sound mind, memory, and understanding and not under any restraint and, as deponent- verily believe, in all respects competent to devise real estate; that each of these deponents saw the other so subscribe and sign said instrument as such witness thereto in the presence of the said deceased.

CHARLES J. GARDNER.
CHAS. W. BAILEY.

Subscribed and sworn to before me this 27th day of August, 1894.

ANDREW J. LORISH, *Surrogate.*

In testimony whereof I have hereunto set my hand this 27th day of August, 1894.

ANDREW J. LORISH, *Surrogate.*

11 The People of the State of New York to all to whom these presents shall come or whom they may concern, send greeting:

Know ye that at the county of Wyoming, on the 27th day of August, in the year of our Lord one thousand eight hundred and ninety-four, in the surrogate's court of our said county, a decree was duly made whereby the last will and testament of Sophia M.

Bristol, deceased, was duly proved and admitted to probate and is now approved and allowed by us; and the said Sophia M. Bristol having been at the time of her death a resident of the county of Wyoming, by means whereof the proving of the said will and the granting of administration of all and singular the goods, chattels, and credits of the said testator, and also the auditing, allowing, and judicially settling the account thereof, doth belong to us, the administration of all and singular the goods, chattels, and credits of said deceased in any way concerning her will is granted unto James Bristol, the executor in the said will named, he being first duly sworn well, faithfully, and honestly to discharge the duties of such executor.

Witness Hon. Andrew J. Lorish, surrogate of said county of Wyoming, and the seal of the surrogate's court of said county, the 27th day of August, in the year of our Lord one thousand eight hundred and ninety-four.

[L. S.] ANDREW J. LORISH, *Surrogate.*

12 STATE OF NEW YORK, *Wyoming County,* } ss:

SURROGATE'S OFFICE.

I, Homer O. Holly, clerk of the surrogate's court in and for said county — Wyoming, do hereby certify that I have compared the foregoing copy of the record of the last will and testament of Sophia M. Bristol, deceased, and the proceedings admitting the same to probate and the letters testamentary issued thereon with the original record thereof now remaining in this office and have found the same to be a correct transcript therefrom and of the whole of such original record, and that said probate of said will and said letters testamentary have not been revoked.

In testimony whereof I have hereunto set my — and affixed the seal of office of the surrogate's court of said county this 11th day of September, in the year of our Lord one thousand eight hundred and ninety-four.

HOMER O. HOLLY,

[L. S.] *Clerk of the Surrogate's Court in and for the County of Wyoming, in the State of New York.*

STATE OF NEW YORK, *Wyoming County,* } ss:

SURROGATE'S OFFICE.

I, Andrew J. Lorish, surrogate of said county of Wyoming and presiding magistrate of the surrogate's court in and for said county of Wyoming, do hereby certify that the foregoing exemplification of the record of the last will and testament of Sophia M. Bristol, deceased, and the proceedings admitting the same to probate and the letters testamentary issued thereon *is* authenticated in due form.

In testimony whereof I have hereunto set my hand and affixed

the seal of the surrogate's court of said county this 11th day
13 of September, in the year of our Lord one thousand eight hundred and ninety-four.

[L. S.] ANDREW J. LORISH, *Surrogate.*

(Endorsed:) Authenticated copy of last will and testament of Sophia M. Bristol, deceased. Filed Sept. 25, 1894. Frank Robert, Jr., clerk.

14 STATE OF MINNESOTA, *County of Ramsey,* } ss:

In Probate Court, Special Term, Held October 19, 1894.

In the Matter of the Last Will and Testament and of the Estate of SOPHIA M. BRISTOL, Deceased.

Be it remembered that on the 19th day of October, 1894, pursuant to notice duly given and to the statute in such case made and provided, at the probate office in said county, before me, Hon. John B. Olivier, judge of the probate court of said county, the foregoing and annexed authenticated copy of the last will and testament of Sophia M. Bristol, late of Wyoming county, in the State of New York, deceased, having been duly proved and allowed by the surrogate's court of Wyoming county, in said State of New York, and the said testator having left real estate in said county of Ramsey, State of Minnesota, on which said will may operate, was on said date filed, allowed, recorded, and admitted to probate as and for the last will and testament of said deceased.

In testimony whereof I have hereunto set my hand and affixed the seal of the probate court of Ramsey county, at Saint Paul, in said county, this 19th day of October, 1894.

JOHN B. OLIVIER,

[L. S.] *Judge of Probate.*

(Endorsed:) Recorded in Book 10, pages 256 to 264. Received Sept. 25, 1894. Filed, allowed, and recorded this 19th day of Oct., 1894. Frank Robert, Jr., cl'k of probate.

15 *Order for Hearing.*

STATE OF MINNESOTA, *County of Ramsey,* } ss:

Probate Court.

In the Matter of Proving the Alleged Last Will and Testament of SOPHIA M. BRISTOL, Deceased.

Whereas James Bristol, of the town of Gainesville, county of Wyoming and State of New York, has delivered to the probate court of the county of Ramsey an instrument in writing purporting to be a duly certified copy of the last will and testament of Sophia M. Bristol, late of Gainesville, Wyoming county, New York,

deceased, and filed therewith his petition to said probate court praying that the said instrument be proved and admitted to probate, and that letters testamentary be granted thereon to him as executor:

It is ordered that said petition be heard and the proofs of said alleged will be taken at a special term of this court, to be held at the court-house, in the city of St. Paul, in said county, on Friday, the 19th day of October, 1894, at 10 o'clock in the forenoon, when all persons interested may appear for or contest the probate of it, and that notice of such hearing be given to all persons interested by publishing this order once in each week for three successive weeks prior to said day of hearing in the St. Paul Weekly Pioneer Press, a weekly newspaper printed and published in said county.

Dated Saint Paul this 25th day of September, 1894.

JOHN B. OLIVIER,
Judge of Probate.

[L. S.]

(Endorsed:) Recorded in Docket 39, on page 146. Filed this 25th day of September, 1894. Frank Robert, Jr., clerk of probate court.

16 *Affidavit of Publication.*

STATE OF MINNESOTA, } ss:
County of Ramsey, }

W. L. Driscoll, being duly sworn, deposes and says that the annexed printed copy of notice of est. of Bristol was taken from the Weekly Pioneer Press, a weekly newspaper, which during the whole time of the publication of said notice, hereinafter stated, has been and is printed and published in the English language, in the city of St. Paul, Ramsey county and State of Minnesota, and published and generally circulated in said county for more than one year next preceding the date of the first publication, hereinafter named, and during all said times was a newspaper as defined in section 1, chapter 33, of the General Laws of Minnesota for 1893, and that the publishers of the said paper have filed with the county auditor of said Ramsey county an affidavit in all respects complying with the requirements of section 2 of chapter 33 of the General Laws of 1893; that the said notice was duly printed and published in said newspaper, in the English language, once in each week for the period of three successive weeks, on Thursday of each week, *for the period of three successive weeks, on Thursday of each week*, commencing on the 27th day of September, 1894, on which day last mentioned it was first published, and then of the 4th day of October, and ending on the 11th day of October, 1894, on which day last mentioned it was last published; upon which days and times of publication aforesaid the said newspaper was regularly printed and published, and that during the whole time of the said publication he was one of the printers and publishers of the said newspaper.

W. J. DRISCOLL.

Subscribed and sworn to before me this 11th day of October, A. D. 1894.

G. E. SAMPSON,
Notary Public, Ramsey County, Minn.

[NOTARIAL SEAL.]

Printers' fee, $5.28.

17 STATE OF MINNESOTA, } ss.:
County of Ramsey, }

Probate Court.

In the Matter of Proving the Alleged Will and Testament of SOPHIA M. BRISTOL, Deceased.

Whereas James Bristol, of the town of Gainesville, county of Wyoming, and State of New York, has delivered to the probate court of the county of Ramsey an instrument in writing purporting to be a duly certified copy of the last will and testament of Sophia M. Bristol, late of Gainesville, Wyoming county, New York, deceased, and filed therewith his petition to said probate court, praying that the said instrument may be proved and admitted to probate, and that letters testamentary be granted thereon to him as executor:

It is ordered that said petition be heard and the proofs of said alleged will be taken at a special term of this court, to be held at the court-house, in the city of St. Paul, in said county, on Friday, the 19th day of October, 1894, at 10 o'clock in the forenoon, when all persons interested may appear for or contest the probate of it, and that notice of such hearing be given to all persons interested by publishing this order once in each week for three successive weeks prior to said day of hearing in the St. Paul Weekly Pioneer Press, a weekly newspaper printed and published in said county.

Dated at Saint Paul this 25th day of September, 1894.

JOHN B. OLIVIER,
Judge of Probate.

[SEAL.]

BUNN & HADLEY, *Att'ys.*

(Endorsed:) Affidavit of publication of order for hearing petition. Filed October 19, 1894. Frank Robert, Jr., clerk.

18 STATE OF MINNESOTA, } ss.:
County of Ramsey, }

In Probate Court, Special Term, October 19th, 1894.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

Pursuant to the order of this court made and entered in said matter on the 25th day of September, A. D. 1894, the hearing of the proofs of that certain instrument purporting to be an authenticated copy of the last will and testament of said deceased came on this day to be heard and considered.

And it appearing to the satisfaction of the court that the notice

directed in the order aforesaid to be given has been given, and it appearing to the court after a full examination of said matter that the said instrument was duly proved and allowed in the surrogate's court in and for the county of Wyoming, State of New York, according to the law of said State;

And it appearing to the court after further examination of the proofs in said matter that said Sophia M. Bristol died testate in the said county of Wyoming, State of New York, and that at the time of her death she left personal estate within the said county of Ramsey and real estate in the State of Minnesota on which said will may operate; that said instrument offered for probate as and for the last will and testament of said deceased was duly executed as *her* last will and testament of said testatrix according to law; that said testatrix at the time of executing the same was of sound mind, and that said instrument was duly proven and allowed in said State of New York:

Now, therefore, it is ordered, adjudged, and decreed that said instrument be, and hereby is, established and allowed as the last will and testament of said Sophia M. Bristol, deceased, and the same is hereby allowed and admitted to probate and ordered filed and recorded.

Ordered further that said copy of said will and testament
19 and the *the* probate thereof (and probate thereof in this said county) be recorded.

By the court:

JOHN B. OLIVIER,
Judge of Probate.

[L. S.]

(Endorsed:) Order admitting foreign will to probate. Filed the 19th day of October, A. D. 1894. Frank Robert, Jr., clerk of probate. Recorded in 45, page 370.

20 *Order for Bond and Letters.*

STATE OF MINNESOTA, } ss:
County of Ramsey, }

Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

The last will and testament of the above-named deceased having been duly admitted to probate and James Bristol, named as executor of said will, having applied for letters testamentary to be issued to him thereon—

Ordered that the said James Bristol make and deliver to the judge of probate of Ramsey county his bond in the penal sum of seven thousand dollars, with satisfactory sureties, conditioned for the faithful performance of his duties as executor, as required by law.

Dated St. Paul, this 19th day of October, 1894.

By the court:

[L. S.]

JOHN B. OLIVIER,
Judge of Probate.

(Endorsed:) Recorded in Docket 39, on page 511. Filed this 19th day of October, 1894. Frank Robert, Jr., clerk of probate court.

21 *Executor's Bond.*

Know all men by these presents that we, James Bristol, as principal, and R. C. Jefferson and L. J. Gates, as sureties, are held and firmly bound unto John B. Olivier, judge of probate court of the county of Ramsey, Minnesota, in the sum of seven thousand dollars, lawful money of the United States, to be paid to the said judge of probate or his successors in office; for which payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Signed with our hands and sealed with our seals this 19th day of October, A. D. 1894.

The condition of this obligation is such that if the above-bounden James Bristol, letters testamentary upon the estate of Sophia M. Bristol, late of Gainesville, Wyoming county, New York, deceased, being unto him granted, shall and will well and faithfully execute the trust reposed — him as executor of all and singular the goods, chattels, credits, and estate of said deceased, and shall make and return into the probate court of the county of Ramsey and State of Minnesota within three months a true and perfect inventory of all the goods, chattels, rights, credits, and estate of said deceased which shall come to him possession or knowledge or to the possession of any other person for him, and shall administer according to law and to the will of the said deceased all the goods, chattels, rights, credits, and estate of said deceased which shall at any time come to his possession or to the possession of any other person for him, and out of the same shall pay and discharge all debts, legacies, and charges chargeable on the same, or such dividends thereon as shall be ordered and decreed by said court, and shall render a true and just account of his administration to said court within one year, and at any other time when required by said court, and shall perform all orders and decrees of said court by him to be performed in the premises, then this obligation shall be void; otherwise
22 it shall be and remain in full force and virtue.

JAMES BRISTOL. [SEAL.]
R. C. JEFFERSON. [SEAL.]
L. J. GATES. [SEAL.]

Signed, sealed, and delivered in presence of—
EMERSON HADLEY.
CORA ZIEGLER.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

Be it known that on this 19th day of October, A. D. 1894, personally appeared before me James Bristol, R. C. Jefferson, and L. J. Gates, to me well known to be the same persons who executed the

foregoing bond, and they severally acknowledged the same to be their own free act and deed, and that they executed the same for the uses and purposes herein expressed.

EMERSON HADLEY,
Notary Public, Ramsey Co., Minn.

[NOTARIAL SEAL.]

STATE OF MINNESOTA, } ss:
County of Ramsey, }

R. C. Jefferson and L. J. Gates, being duly sworn, each for himself deposes and says that he is a freeholder and resident of the State of Minnesota, and is worth the sum of seven thousand dollars over and above all just debts, liabilities, and responsibilities, and exclusive of his property exempt from execution.

R. C. JEFFERSON.
L. J. GATES.

Subscribed and sworn to before me this 19th day of October, 1894.

EMERSON HADLEY,
Notary Public, Ramsey Co., Minn.

[NOTARIAL SEAL.]

23 I do hereby approve the within bond.
Dated this 19th day of October, A. D. 1894.

JOHN B. OLIVIER,
Judge of Probate.

(Endorsed:) Filed October 19th, 1894. Frank Robert, Jr., clerk of probate.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

I hereby certify that the within executor's bond was duly recorded this 19th day of Oct., A. D. 1894, in Book No. 8 of Bonds, page 151.

FRANK ROBERT, JR.,
Clerk of Probate.

24 STATE OF MINNESOTA, } ss:
County of Ramsey, }

In Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

I do solemnly swear that I will well and truly execute the last will and testament of Sophia M. Bristol, deceased, by paying first the debts and then the legacies mentioned therein as far as *his* goods and chattels will thereunto extend and the law charge me, and that I will make a true and perfect inventory of all such goods and chattels, rights, credits, and effects as may come to my hands or knowledge belonging to the estate of said deceased and render a fair and just account of my executorship, when thereunto required by law, to the best of my knowledge and ability, so help me God.

JAMES BRISTOL.

Sworn to and subscribed before me this 19th day of October, A. D. 1894, at St. Paul, in said county.

EMERSON HADLEY,
[NOTARIAL SEAL.] *Notary Public, Ramsey Co., Minn.*

(Endorsed:) Executor's oath. Filed the 19th day of October, A. D. 1894. Frank Robert, Jr., clerk of probate.

25 STATE OF MINNESOTA, } ss:
County of Ramsey, }

The last will of Sophia M. Bristol, deceased, having been proved and recorded in the probate court of the county of Ramsey, *and* James Bristol, who is named therein as such, is hereby appointed executor.

Witness John B. Olivier, judge of the probate court of the
[L. S.] county of Ramsey, and the seal of the court affixed, the 19th day of October, A. D. 1894.

By the court:

JOHN B. OLIVIER,
Judge of Probate Court, Ramsey County, Minnesota.

(Endorsed:) Letters testamentary. Issued this 19th day of Oct., A. D. 1894, and recorded in letters testamentary, in Book No. 6, page 43. Frank Robert, Jr., clerk of probate court.

26 STATE OF MINNESOTA, } ss:
County of Ramsey, }

Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

Letters testamentary on the estate of Sophia M. Bristol, deceased, late of the town of Gainesville, county of Wyoming and State of New York, being granted James Bristol, executor—

It is ordered that six months be, and the same is hereby, allowed from and after the date of this order in which all persons having claims or demands against the said deceased are required to file the same in the probate court of said county for examination and allowance or be forever barred.

It is further ordered that the first Monday in May, 1895, at 10 o'clock a. m., at a general term of said probate court, to be held at the court-house, in the city of Saint Paul, in said county, be, and the same hereby is, appointed as the time and place when and where the said probate court will examine and adjust said claims and demands.

And it is further ordered that notice of such hearing be given to all creditors and persons interested in said estate by forthwith publishing this order once a week for three successive weeks in the St.

Paul Weekly Pioneer Press, a weekly newspaper printed and published in said county.

Dated at Saint Paul this 19th day of October, 1894.

By the court:

JOHN B. OLIVIER,
Judge of Probate.

[L. S.]

(Endorsed:) Order for creditors to present claims. Recorded in Docket 46, on page 154. Filed this 19th day of Oct., A. D. 1894. Frank Robert, Jr., clerk of probate court.

27 *Affidavit of Publication.*

STATE OF MINNESOTA, } ss:
County of Ramsey, }

W. J. Driscoll, being duly sworn, deposes and says that the annexed printed copy of notice of estate of Bristol was taken from the Weekly Pioneer Press, a daily newspaper, which during the whole time of the publication of said notice, hereinafter stated, has been and is printed and published in the English language, in the city of St. Paul, Ramsey county and State of Minnesota, and published and generally circulated in said county for more than one year next preceding the date of the first publication hereinafter named, and during all said times was a newspaper as defined in section 1, chapter 33, of the General Laws of Minnesota for 1893, and that the publishers of the said paper have filed with the county auditor of said Ramsey county an affidavit in all respects complying with the requirements of section 2 of chapter 33 of the General Laws of 1893; that the said notice was duly printed and published in said newspaper in the English language once in each week for the period of three successive weeks, on Thursday of each week, commencing on the 25th day of October, 1894, on which day last mentioned it was first published, and then on the 1st day of November and ending on the 8th day of November, 1894, on which day last mentioned it was last published, upon which days and times of publication aforesaid the said newspaper was regularly printed and published, and that during the whole time of the said publication he was one of the printers and publishers of the said newspaper.

W. J. DRISCOLL.

Subscribed and sworn to before me this 9th day of November, A. D. 1894.

[NOTARIAL SEAL.]

G. E. SAMPSON,
Notary Public, Ramsey County, Minn.

Printer's fee, $5.22.

28 STATE OF MINNESOTA, } ss:
County of Ramsey, }

Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

Letters testamentary on the estate of Sophia M. Bristol, deceased, late of the town of Gainesville, county of Wyoming, and State of New York, being granted to James Bristol, executor—

It is ordered that six months be, and the same is hereby, allowed from and after the date of this order in which all persons having claims or demands against the said deceased are required to file the same in the probate court of said county for examination and allowance or be forever barred.

It is further ordered that the first Monday in May, 1895, at 10 o'clock a. m., at a general term of said probate court, to be held at the court-house, in the city of Saint Paul, in said county, be, and the same hereby is, appointed as the time and place when and where the said probate court will examine and adjust said claims and demands.

And it is further ordered that notice of such hearing be given to all creditors and persons interested in said estate by forthwith publishing this order once in each week for three successive weeks in the St. Paul Weekly Pioneer Press, a weekly newspaper printed and published in said county.

Dated at St. Paul this 19th day of October, 1894.

By the court:

[L. S.] JOHN B. OLIVIER,
Judge of Probate.

BUNN & HADLEY,
Attorneys for Executor, St. Paul, Minn.

(Endorsed:) Filed May 9, 1895. Frank Robert, Jr., clerk.

29 STATE OF MINNESOTA, } ss:
County of Ramsey, }

In Probate Court, Special Term, Oct. 19, 1894.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

Letters testamentary on said estate having been granted to James Bristol, as executor of said estate—

It is ordered, and by virtue and in pursuance of the statute in such case made and provided this court doth hereby order, that the said executor be, and he is hereby, allowed twelve months from and after the date hereof for disposing of the estate and paying the debts of said deceased, and no longer, unless the time above limited shall be extended by order of this court for cause shown.

By the court:

[L. S.] JOHN B. OLIVIER,
Judge of Probate.

(Endorsed:) Order limiting time to pay debts. Recorded in Order Book No. 46, page 365. Filed the 19th day of October, A. D. 1894. Frank Robert, Jr., clerk of probate.

30 STATE OF MINNESOTA, } ss:
County of Ramsey, }

In Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

Letters testamentary having been granted unto James Bristol, of Gainesville, Wyoming county, and State of New York, on said estate, and it appearing that said deceased left goods, chattels, rights, credits, and estate within this county, and that it is necessary that the same be duly appraised, *and* now, on application of said James Bristol—

It is ordered that R. C. Jefferson, of Ramsey county, and C. M. McClure, of Washington county, be, and they are hereby, appointed such appraisers.

And it is further ordered that such appraisers, before entering upon their duties, be sworn to the faithful discharge of their trust, and that the appraisal by them made of all the estate and effects of the said deceased be returned to the said James Bristol, as aforesaid, to be by him returned to the probate court.

Dated at St. Paul this 19th day of October, 1894

By the court:

JOHN B. OLIVIER,
Judge of Probate.

[L. S.]

(Endorsed:) Order appointing appraisers. Filed this 19th day of October, 1894, and recorded in Book 46 of Orders, on page 472. Frank Robert, Jr., clerk of probate court.

31 STATE OF MINNESOTA, }
County of Ramsey. }

Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

Oath of Appraisers.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

R. C. Jefferson and C. M. McClure, being each duly sworn, doth, each for himself, depose and say that he will honestly, faithfully, and impartially discharge and execute the duties and trust of appraiser of the real estate and of all the goods, chattels, rights, and credits of Sophia M. Bristol, late of the county of Wyoming, State of New York, in said State, and according to the best of his knowledge, judgment, and ability.

R. C. JEFFERSON.
C. M. McCLURE.

Subscribed and sworn to before me this 19th day of October, 1898.

EMERSON HADLEY,

[NOTARIAL SEAL.] *Notary Public, Ramsey County, Minnesota.*

Inventory and Appraisement

Of all real estate and all the goods, chattels, rights, and credits and estate of Sophia M. Bristol, deceased, which have come into the possession or to the knowledge of the undersigned, James Bristol, executor of the said estate, in the State of Minnesota.

Dated this 19th day of October, A. D. 1894.

No.	Class 1—Real estate.	Remarks.	Value.
	All in Washington county.		
1	S. E. ¼ of S. W. ¼ & S. W. ¼ of S. E. ¼, sec. 28, T. 28, R. 20		$1,750.00
2	N. ½ of N. E. ¼, sec. 25, T. 32, R. 21		400.00
32			
3	S. ½ of S. ½ of N. E. ¼, sec. 25, T. 32, R. 21		300.00
4	Middle ⅓ of block 13, original city of Stillwater		1,200.00
5	S. E. ¼ of S. E. ¼, sec. 15, T. 31, R. 21		2,000.00
6	E. ½ of N. E. ¼, sec. 22, T. 31, R. 21		
7	Lot 1, block 2, Wilson's addition to city of Stillwater		1,250.00
8	Lot 28, block 13, Churchill, Nelson & Slaughter's addition to Stillwater		400.00
9	S. W. ¼ of sec. 24, T. 29, R. 20		1,350.00
10	N. ½ of S. W. ¼ of sec. 20, T. 38, R. 21		2,100.00
11	N. ½ lot 1, block 18, Carli & Schulenberg's add. to Stillwater		625.00
12	S. E. ¼ of N. E. ¼, sec. 24, T. 28, R 20		1,200.00
13	N. W. ¼ of S. W. ¼ and S. W. ¼ of N. W. ¼, sec. 2, T. 20, R. 21		1,000.00
14	N. ½ of S. E. ¼ and S. E. ¼ of S. E. ¼, sec. 3, T. 30, R. 21		1,500.00
15	E. 64½ acres of E. ½ N. W. ¼ of sec. 23, T. 31, R. 21.		3,200.00
16	N. ½ of N. W. ¼ and W. 15½ acres of S. W. ¼ of N. E. ¼ of sec. 23, T. 31, R. 21		
17	N. W. ¼ of N. E. ¼ and N. E. ¼ of N. W. ¼, sec. 36, T. 31, R. 20		600.00
18	S. W. ¼ of S. W. ¼ and S. E. ¼ of S. W. ¼, sec. 15, T. 31, R. 21		400.00
19	Lots 9, 11, & 13, block 6, Gray & Slaughter's addition to the city of Stillwater		500.00
20	Lots 12 & 13, block 16, Churchill, Nelson & Slaughter's addition to Stillwater		2,200.00
21	Lots 7 and 8, block 6, original city of Stillwater		1,100.00
22	S. W. ¼ of N. W. ¼, sec. 28, T. 28, R. 20.		750.00
23	W. ½ of N. E. ¼ and E. ½ of N. W. ¼, sec. 15, T. 27, R. 20		1,500.00
24	Part of the N. ½ of N. W. ¼, sec. 2, T. 30, R. 30 (79 acres)		2,000.00
25	Lots 11 and 12 of block 12, Holcomb's addition to the city of Stillwater		150.00
26	S. ½ of S. W. ¼, sec. 2, T. 32, R. 20		1,000.00
27	N. ½ of S. E. ¼, sec. 24, T. 31, R. 20		800.00
28	S. W. ¼ of N. W. ¼, sec. 12, T. 31, R. 21		600.00

No.	Class 1—Real estate.	Remarks.	Value.
33	Following in Chisago county, Minnesota.		
29	N. W. ¼ of N. W. ¼, sec. 4, T. 35, R. 20		
30	N. W. ¼ of N. E. ¼, sec. 5, T. 35, R. 20	.....	700.00
31	S. W. ¼ of S. W. ¼, sec. 33, T. 36, R. 20		
32	S. E. ¼ of N. E. ¼, sec. 31, T. 36, R. 20	.....	800.00
33	S. ½ of N. E. ¼, sec. 8, T. 37, R. 20	.....	500.00
34	W. ½ of S. E. ¼ & E. ½ of S. W. ¼, sec. 4, T. 37, R. 21	.....	1,000.00
35	S. ½ of S. E. ¼, sec. 7, T. 27, R. 20		
36	E. ½ of N. W. ¼ of sec. 18, T. 32, R. 20	.....	500.00
37	S. W. ¼ of S. W. ¼, sec. 18, and N. E. ¼ of N. W. ¼, and west ½ of N. W. ¼, sec. 19, T. 33, R. 19	.....	1,000.00
38	N. ½ of N. E. ¼, sec. 26, T. 37, R. 21	.....	500.00
	In Isanti county, Minnesota.		
39	S. W. ¼, sec. 21, T. 35, R. 22	.....	750.00
No.	Class 5—Mortgages, bonds, notes, and other written evidences of debst.	Remarks.	Value.
5	Bonds Stevens county, Minn., $1,000 each	.....	$5,000.00
	Total appraisement	.....	$40,625.00

JAMES BRISTOL, *Executor.*

We, the undersigned appraisers, do hereby certify that, having first taken and subscribed the oath hereto annexed, we have appraised all the property described and mentioned in the above inventory which has been to us exhibited, and have classed the different items under their respective heads, and have set down
34 opposite to each item, in figures, the value thereof in money as by us determined, and have footed up the amount of each class.

Witness our hands this 10th day of October, A. D. 1894.

R. C. JEFFERSON,
C. M. McCLURE,
Appraisers.

(Endorsed:) Inventory and appraisement. Filed this 24th day day of October, A. D. 1894. Frank Robert, Jr., clerk of probate court.

35 COUNTY AUDITOR'S OFFICE,
STILLWATER, WASHINGTON COUNTY, MINNESOTA.

The estate of Sophia M. Bristol to Washington county, Dr.

For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1883	$481.51	
For penalty of 5 per cent. upon failure to pay such taxes prior to March 1st, 1884	24.07	
		$505.58
For interest on this amount from August 1st, 1884.		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1884	4,287.40	
For penalty of 5 per cent. upon failure to pay such taxes prior to March 1st, 1885	214.37	
		4,501.77
For interest on this amount from the 1st of August, 1885		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1885	4,547.40	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1886	454.74	
		5,002.14
For interest on this amount from August 1st, 1886		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1886	4,937.40	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1887	493.74	
		5,431.14
For interest on this amount from the 1st of August, 1887		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1887	5,571.97	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1888	557.19	
		6,129.16
For interest on this amount from August 1st, 1888		
36 For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1888	5,506.82	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1889	550.68	
		6,057.50

For interest on this amount from August 1st, 1889.....		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1889.....	6,163.93	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1890.....	616.39	
		6,780.32
For interest on this amount from August 1st, 1890.		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1890	5,576.90	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1891.....	557.69	
		6,134.59
For *taxes* on this amount from August 1st, 1891.		
For taxes on personal property situated in the city of Stillwater, in said Washington county, for the year A. D. 1891.....	5,576.90	
For penalty of 10 per cent. upon failure to pay such *taxes* prior to March 1st, 1892	557.69	
		6,134.59
For interest on this amount from August 1st, 1892.		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1892.....	6,296.50	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1893.....	629.65	
		6,926.15
For interest on this amount from August 1st, 1893.		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1893.....	5,397.00	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1894.....	539.70	
		5,936.70
For interest on this amount from August 1st, 1894.		
For taxes on personal property situate in the city of Stillwater, in said Washington county, for the year A. D. 1894.....	4,677.40	
For penalty of 10 per cent. upon failure to pay such taxes prior to March 1st, 1895.....	467.74	
		5,145.14
		$64,684.78

37 The said Sophia M. Bristol was not on the 1st day of March, A. D. 1894, or at any time thereafter until her death, a resident of the State of Minnesota, nor was she during such time within the State of Minnesota, except temporarily, and that the whole period of time spent in said State of Minnesota by said Sophia M

Bristol after the 1st day of March, A. D. 1884, until her death did not exceed one year.

STATE OF MINNESOTA, } ss:
County of Washington, }

I, Charles H. Browne, county auditor of the county of Washington, in the State of Minnesota, do hereby certify that the sum of $59,539.64, included in the above and foregoing claim of Washington county against the estate of Sophia M. Bristol for $64,684.78, for taxes levied and assessed against said Sophia M. Bristol, during her lifetime, during each of the years A. D. 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, and 1893, is just and true, as shown by the tax books in my office, and that no payments have been made thereon, and that there are no offsets to the same, to my knowledge.

CHARLES H. BROWNE,
County Auditor.

[AUDITOR'S SEAL.]

38 STATE OF MINNESOTA, } ss:
County of Washington, }

I, August Booren, county treasurer of the county of Washington, in the State of Minnesota, do hereby certify—

That the sum of $5,145.14, included in the above and foregoing claim of Washington county against the estate of Sophia M. Bristol for taxes levied and assessed against said Sophia M. Bristol on personal property in the year A. D. 1894, is just and true, as shown by the duplicate tax-list of the city of Stillwater and the records in my office, and that said taxes have not been paid, and that there is no offset to the same, to the knowledge of this affiant.

AUG. BOOREN,
County Treasurer.

STATE OF MINNESOTA, } ss:
County of Washington, }

August Booren, being first duly sworn, deposes and says that he is the county treasurer of said county of Washington and the same person who signed the foregoing certificate, and that said certificate is in all things true.

AUG. BOOREN.

Subscribed and sworn to before me this eighteenth day of April, A. D. 1895.

LOUIS L. MANWARING,
[NOTARIAL SEAL.] *Notary Public, Washington County, Minn.*

39 STATE OF MINNESOTA, } ss:
County of Washington, }

STATE OF MINNESOTA, } ss:
County of Washington, }

Charles H. Browne, being by me first duly sworn, deposes and says that he is the county auditor of Washington county, Minnesota, and as such officer makes this affidavit for and on behalf of said county.

Deponent further says that the above and foregoing claim of said Washington county against the estate of Sophia M. Bristol for the sum of $64,684.78, with interest on the sum of $505.58 from the 1st day of August, 1884; on the sum of $4,501.77 from the 1st day of August, 1885; on the sum of $5,002.14 from the 1st day of August, 1886; on the sum of $5,431.14 from the 1st day of August, 1887; on the sum of $6,129.16 from the 1st day of August, 1888; on the sum of $6,057.50 from the 1st day of August, 1889; on the sum of $6,780.32 from the 1st day of August, 1890; on the sum of $6,134.59 from the 1st day of August, 1891; on the sum of $6,134.59 from the first day of August, 1892; on the sum of $6,926.15 from the 1st day of August, 1893, and on the sum of $5,936.70 from the 1st day of August, 1894, for taxes due said county for the years A. D. 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, and 1894, is just and true, and that no payments have been made thereon, and that there are no offsets to the same, to the knowledge of affiant.

CHARLES H. BROWNE.

Subscribed and sworn to before me this 18th day of April, A. D. 1895.

LOUIS L. MANWARING.
[NOTARIAL SEAL.] *Notary Public, Washington Co., Minn.*

(Endorsed:) Received Ap'l 18, 1895. Frank Robert, Jr., clerk.

40 STATE OF MINNESOTA, }
County of Ramsey. }

Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In the Matter of the Allowance of the Claim of Washington County, Minnesota.

Now comes James Bristol, executor of the last will and testament of Sophia M. Bristol, deceased, and for his answer and objections to the allowance of the claim of Washington county, Minnesota, filed herein, alleges:

That the said Sophia M. Bristol was for more than fifteen years next prior to her death, which occurred on the eleventh day of August, 1894, a resident and citizen of the State of New York, and that James Bristol, the executor above named, is now and for more

than fifteen years last past always has been a resident and citizen of the State of New York; that Washington county is a municipal corporation organized and existing under the laws of Minnesota; that the said Sophia M. Bristol was not at the time of her death and neither is her estate nor James Bristol, the executor of her said last will and testament, now indebted to said Washington county, Minnesota, in any sum whatever, either for taxes or penalties or otherwise, nor are there any taxes of any kind due or owing from said estate or said executor to said Washington county.

The said executor admits that said Washington county has made pretended assessments of certain taxes upon the property of said Sophia M. Bristol at the times in the amounts set forth in the verified claim of Washington county, filed herein, but that said taxes so pretended to be assessed were attempted to be assessed by said county of Washington and the officers and agents thereof upon credits other than of bank, banker, or broker or stock jobber
41 belonging to said Sophia M. Bristol, situated in the county of Washington and State of Minnesota, on the 1st day of May in each of the years from A. D. 1883 to A. D. 1894, inclusive; that at no time during said period did the said Sophia M. Bristol hold or own any such credits or personal property of any kind within the State of Minnesota, but that during said period said Sophia M. Bristol has loaned sums of money to various parties and taken promissory notes therefor, and as security therefor mortgages on real estate situated in Washington county, Minnesota, but that during all of said time the said promissory notes have always been held and kept by said Sophia M. Bristol at her home in the State of New York and not within the State of Minnesota or the said county of Washington, and none of the property on which said taxes were assessed was subject to taxation in the State of Minnesota, but the same and all thereof was situated and had its situs at the home of said Sophia M. Bristol in Wyoming county and State of New York, and that during said time said Sophia M. Bristol has been duly assessed taxes on the same property, and has been compelled to pay and has regularly paid taxes upon the same to the town of Gainesville, Wyoming county, State of New York.

That the above-named court has no jurisdiction over any of the said property attempted to be assessed.

Said James Bristol, as executor aforesaid, further alleges that even if said property is subject to taxation in Washington county, Minnesota, that all the said taxes set forth in the claim filed herein have been unfairly and unequally assessed; that the same have been assessed upon a valuation of the property assessed at amounts ranging between $165,000 and $196,772 from year to year during the period from 1884 to 1894, inclusive; that such valuation is largely in excess of the true value of said property assessed at the times when such taxes were assessed, and said James Bristol, executor aforesaid, is informed and verily believes that at no time between May 1st, 1884, and May 1st, 1894, or on either of those days, has the true value of the property of said Sophia M. Bristol on which said taxes were assessed been more than $100,000.

42 Said James Bristol, as executor, further alleges that said taxes have been assessed upon a valuation of said credits fixed at the amount payable thereon, without regard to the true value thereof.

That said assessments and each of them have been attempted to be made under the provision- of section 28 of chapter 11 of the General Statutes of Minnesota of the year 1878, which provides that every credit for a sum certain payable in money shall be valued for the purpose of assessments of taxes at the full price of the same so payable; that said statute is contrary to section one of article nine of the constitution of the State of Minnesota and void, and said assessment- of taxes and each of them are illegal and void.

Further answering, said James Bristol, executor aforesaid, alleges that the assessment, levy, and collection of said taxes and each of them is in violation of the Constitution of the United States, in this, that thereby a citizen of New York is deprived of a privileges and immunity granted to the citizens of the State of Minnesota; also in that it deprives a person of property without due process of law, and, further, in that thereby private property is taken for public use without just compensation, and the assessment, levy, and collection of said taxes and each of them are also contrary to the fourteenth amendment to the Constitution of the United States, in this, that thereby the State of Minnesota is enforcing a law which does abridge the privileges and immunities of a *of a* citizen of the United States, and does deprive a person of property without due process of law, and does deny a person within its jurisdiction the equal protection of the laws.

That said assessments and levy of said taxes and each of them are also invalid and unconstitutional for the reason that by assessing and levying the same the State of Minnesota is attempting to assess and levy taxes on property situated out of the State of Minnesota and to give its tax laws an extraterritorial jurisdiction.

43 Wherefore said James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, prays that the claim of Washington county and the whole thereof be disallowed.

JAMES BRISTOL,
Executor of the Last Will and Testament of Sophia M. Bristol, Deceased.

BUNN & HADLEY,
Attorneys for said Examiner.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

James Bristol, being duly sworn, says that he is the James Bristol, executor of the last will and testament of Sophia M. Bristol; that the foregoing answer and objections to the claim of Washington county, Minnesota, *is* true, except as to matters therein stated on information and belief, and as to those matters he believes *it* to be true.

JAMES BRISTOL.

Subscribed and sworn to before me this 29th day of April, A. D. 1895.

EMERSON HADLEY,
[NOTARIAL SEAL.] *Notary Public, Ramsey County, Minnesota.*

(Endorsed:) Answer and objections. Filed April 30, 1895. Frank Robert, Jr., clerk.

44 STATE OF MINNESOTA, }
County of Ramsey. }

Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In the Matter of the Allowance of the Claim of Washington County, Minnesota.

The petition of James Bristol, executor of the last will and testament of Sophia M. Bristol, deceased, respectfully represents to the court:

That the last will and testament of Sophia M. Bristol, deceased, was duly admitted to probate in the above-named court on the 19th day of October, 1894; that said court then and there had jurisdiction of the same so far as it operated upon property of the said Sophia M. Bristol, deceased, within the State of Minnesota, and of the estate of said Sophia M. Bristol within said State; that the said Sophia M. Bristol died seized of certain real estate situate within the State of Minnesota, and also possessed of certain personal property situate within the county of Ramsey and State of Minnesota; that on said 19th day of October, 1894, letters testamentary on said last will and testament were duly issued by said court to said James Bristol, who thereafter duly qualified as executor of said last will and testament, and is now said executor; that the above entitled action has been brought and is pending in the probate court of Ramsey county, in the State of Minnesota, and said action was commenced by the said Washington county of Minnesota on the 18th day of April, 1895, by filing its duly verified claim in said probate court; that the time for answering and objecting to said claim has not yet expired according to the laws of the State of Minnesota and the rules of said court; that the time for filing claims against said estate in said court has expired, and the said claim of Washington county is the only claim filed therein.

45 That said action is a suit of a civil nature brought by the said Washington County to recover from the estate of said Sophia M. Bristol and the said James Bristol, executor of the last will and testament of said deceased, general taxes and penalties thereon and interest, amounting to sixty-four thousand six hundred eighty-four and *eighty-four and* $\frac{78}{100}$ ($64,684.78) dollars, exclusive of interest; all of which matters and things will more fully appear in the verified claim of said Washington county, which is referred to and made part of this partition.

The said James Bristol, executor of the last will and testament of Sophia M. Bristol, is and has been all the time during the fifteen years last past a citizen and resident of the State of New York, and during all the said time has had his home and resided at Gainesville, in Wyoming county, in the State of New York; that said Sophia M. Bristol was for more than fifteen years prior to her death, which occurred August 11th, 1894, a resident and citizen of the town of Gainesville, county of Wyoming and State of New York; that said Washington county, Minnesota, is and was at the time of the commencement of this action a municipal corporation organized and existing under the laws of the State of Minnesota.

That the said James Bristol, executor, as aforesaid, makes and files with this petition a bond, with a good and sufficient surety, for his entering into the circuit court of the United States for the district of Minnesota on the first day of its next session a copy of the record in this suit and for paying all costs that may be awarded by the said circuit court if said court shall hold that such suit was wrongfully and improperly removed thereto.

Wherefore said James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, prays the said State court to accept this petition and bond and proceed no further in said suit, and that said suit be removed to the circuit court of the United States for the district of Minnesota, third division.

46 Dated April 29th, 1895.

BUNN & HADLEY,
Attorneys for James Bristol, Executor of the Last Will and Testament of Sophia M. Bristol, Deceased.

JAMES BRISTOL,
Executor of the Last Will and Testament of Sophia M. Bristol, Deceased.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

James Bristol, being duly sworn, deposes and says that the foregoing is true.

JAMES BRISTOL.

Subscribed and sworn to before me this 29th day of April, 1895.

EMERSON HADLEY,
[NOTARIAL SEAL.] *Notary Public, Ramsey Co., Minn.*

47 Know all men by these presents that James Bristol, executor of the last will and testament of Sophia M. Bristol, deceased, as principal, and James Kasson and R. M. Jefferson, as sureties, are held and firmly bound unto the County of Washington, State of Minnesota, in the penal sum of five hundred ($500) dollars; for the payment of which, well and truly to be made, the said obligors bind themselves and their respective successors, heirs, executors, administrators, and assigns firmly by these presents.

The condition of this obligation is such that whereas the said County of Washington, State of Minnesota, has commenced an

action against James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, in the probate court of Ramsey county, Minnesota, which action is now pending, and the said James Bristol, as executor aforesaid, desires and is about to apply to remove said action in accordance with law to the circuit court of the United States for the district of Minnesota, third division:

Now, therefore, if the said James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, shall enter in said circuit court on the first day of its next session a copy of the record in such suit and pay all costs that may be awarded by the said circuit court if the said court shall hold that said suit was wrongfully or improperly removed thereto, then this bond shall be void; otherwise of full force and effect.

In witness whereof the said principal and sureties have hereunto set their hands and seals this 29th day of April, A. D. 1895.

JAMES BRISTOL, [SEAL.]
Executor of the Last Will and Testament of Sophia M. Bristol, Deceased.
JAMES KASSON. [SEAL.]
R. M. JEFFERSON. [SEAL.]

In presence of—
EMERSON HALDEY.
NETTIE BLASING.

48 STATE OF MINNESOTA, } *ss:*
County of Ramsey, }

On this 29th day of April, A. D. 1895, before me personally appeared James Kasson and R. M. Jefferson, the sureties above named, who, being duly sworn, did each of them depose and say that he is a surety on the foregoing bond, and that he is a resident and freeholder in the county of Ramsey and State of Minnesota, and is worth the sum of one thousand ($1,000) dollars in property within the State of Minnesota not exempt from execution and over and above his debts and liabilities.

JAMES KASSON.
J. M. JEFFERSON.

Subscribed and sworn to before me this 29th day of April, A. D. 1895.

[NOTARIAL SEAL.] EMERSON HADLEY,
Notary Public, Ramsey County, Minnesota.

49 STATE OF MINNESOTA, }
County of Ramsey. }

Probate Court.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In the Matter of the Allowance of the Claim of Washington County, Minnesota.

On this 30th day of April, A. D. 1895, there was duly presented to the undersigned judge of said court the annexed petition and bond of James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, to remove this suit into the circuit court of the United States for the district of Minnesota, third division, said bond bearing date the 29th day of April, 1895, and being signed by said James Bristol, as executor, as aforesaid, as principal, and James Kasson and R. M. Jefferson, as sureties, on motion of Bunn and Hadley, attorneys for said James Bristol, said executor.

It is ordered that said bond be, and the same is, approved and said petition and bond accepted.

By the court:

G. WILLRICH,
Judge of Probate.

[L. S.]

(Endorsed:) Filed April 30, 1895. Frank Robert, Jr., clerk.

50 STATE OF MINNESOTA, } ss:
County of Ramsey, }

In Probate Court.

I, Frank Robert, Jr., clerk of the probate court of said county, do hereby certify that I have compared the annexed copy of petition to admit foreign will to probate, exemplified copy of will and proceedings had thereon, order for hearing proofs of will, affidavit of publication, order admitting foreign will to probate, order for executor's bond and letters, executor's bond, executor's oath, letters testamentary, order for creditors to present claims, etc., order limiting time to pay debts, affidavit of publication of notice to creditors, order appointing appraisers, inventory and appraisement, claim of Washington county, answer and objections to claim, and petition, bond, and order on appeal with the original records and files preserved in said probate court, and that the same is a true and correct transcript therefrom and of the whole of said original records and files.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the probate court of said county, at St. Paul, in said county, this 11th day of May, A. D. 1895.

[Seal of Probate Court.]

FRANK ROBERT, JR.,
Clerk of Probate, Ramsey Co., Minn.

51 STATE OF MINNESOTA, } ss:
County of Ramsey, }

I, Frank Robert, Jr., clerk of the probate court of said county, do hereby further certify that the foregoing is a true copy of the whole record of said probate court in the matter of the estate of Sophia M. Bristol and of the matter of the claim of Washington county, State of Minnesota, filed in said court against said estate, and of all papers filed in said matter up to and including the date hereof.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the probate court of said county, at St. Paul, in said county, the 11th day of May, A. D. 1895.

[Seal of Probate Court.]

FRANK ROBERT, JR.,
Clerk of Probate Court, Ramsey County, Minnesota.

(Endorsed:) Transcript of record. In the matter of the estate of Sophia M. Bristol, deceased. Claim of Washington county against Bristol estate for taxes. Filed May 23, 1895. Oscar B. Hillis, clerk.

52 And thereafterwards, to wit, on the 27th day of June, 1895, the following stipulation waiving jury and for order to file formal complaint was filed of record in said court, to wit:

53 Circuit Court of the United States, District of Minnesota, Third Division.

In the Matter of the Estate of SOPHIA M. BRISTOL.

It is hereby stipulated by and between the parties to the above-entitled cause that a trial by jury thereof be, and the same is hereby, waived.

It is further stipulated that an order may be entered requiring the claimant to file a formal complaint in said cause within ten days, and that the respondent have ten days thereafter to file an answer.

L. L. MANWARRING,
CLAPP & MACARTNEY,
Attorneys for Claimant.
BUNN & HADLEY,
Attorneys for Respondent.

Dated June 27th, 1895.

(Endorsed:) Stipulation waiving jury and for order to file formal complaint. Filed June 27th, 1895. Oscar B. Hillis, clerk.

54 And thereafter, to wit, on the 8th day of July, the following complaint was filed for record in said court, viz:

55 Circuit Court of the United States, District of Minnesota, Third Division.

In the Matter of the Estate of SOPHIA M. BRISTOL.

Now comes Washington County, the claimant in the above-entitled cause, and for its complaint against the above-named estate respectfully shows to the court and alleges:

First. That this claimant is and at all the times hereinafter mentioned has been a municipal corporation, to wit, an organized county created and existing under and pursuant to the laws of the State of Minnesota.

Second. That in and during each of the years A. D. 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, and 1894 certain taxes were duly levied and assessed on certain personal property of and belonging to the above-named Sophia M. Bristol, deceased, situate in the city of Stillwater, in said county of Washington, amounting in each of said years to the sums set opposite the respective years as follows—that is to say:

1883	$481.51	1889	6,163.93
1884	4,287.40	1890	5,576.90
1885	4,547.40	1891	5,576.90
1886	4,937.40	1892	6,296.50
1887	5,571.97	1893	5,397.00
1888	5,506.82	1894	4,677.40

Third. That the said Sophia M. Bristol failed and neglected to pay said taxes on the 1st day of March in each of the years following that in which said taxes were respectively levied, as hereinbefore set forth, or at any time thereafter, and that by reason of such failure said Sophia M. Bristol and her said estate became and was and is liable to pay a penalty amounting to five per cent. of the amount of such taxes for the years 1883 and 1884 and 10 per cent. for each year thereafter, and that the amount of said penalty for each of said years is as follows—that is to say:

56	1883	$24.07	1889	$616.39
	1884	214.37	1890	557.69
	1885	454.74	1891	557.69
	1886	493.74	1892	629.65
	1887	557.19	1893	539.70
	1888	550.68	1894	467.74

Fourth. That the said Sophia M. Bristol was not, on the 1st day of March, 1884, or at any time thereafter until her death, a resident of the State of Minnesota, nor was she during such time within the State of Minnesota except temporarily, and that the whole period of time spent in said State of Minnesota by said Sophia M. Bristol after the 1st day of March, 1884, until her death, which occurred prior to the 27th day of August, 1894, did not exceed one year.

And this claimant further shows that the said Sophia M. Bristol died testate, and that on or about the 19th day of October, 1894, the

will of said Sophia M. Bristol was duly admitted to probate in and by the probate court of Ramsey county, in the State of Minnesota, and that thereupon such proceedings were had in the matter of said estate that James Bristol, the executor named in said will, was duly appointed by said court as the executor of said estate, and that the said Bristol thereupon duly qualified as such executor and entered upon the discharge of his duties as such, and that thereafter and on the 18th day of April, A. D. 1895, and within the time required by the order duly made by said probate court, this claimant duly made and filed its verified claim against the estate of said Sophia M. Bristol in said probate court, as by law required.

And this claimant further shows that none of said taxes have ever been paid, and that the full amount thereof and of the penalties incurred, as aforesaid, with interest upon the amount of the taxes and penalty for each year from the 1st day of March, in the year after the year in which said taxes were levied, as aforesaid, is now actually and justly due and payable to this claimant.

Wherefore this claimant demands judgment against said estate of Sophia M. Bristol for the sum of sixty-four thousand six hundred eighty-four dollars and seventy-eight cents ($64,684.78) and interest thereon, as aforesaid.

L. L. MANWARRING &
CLAPP & MACARTNEY,
Attorneys for Claimant.

Filed July 8, 1895.

OSCAR B. HILLIS, *Clerk.*

57 And on August 15th, 1895, the following answer was filed for record in said court, to wit:

58 Circuit Court of the United States, District of Minnesota, Third Division.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In the Matter of the Allowance of the Claim of Washington County, Minnesota.

Now comes the defendant, James Bristol, executor of the last will and testament of Sophia M. Bristol, deceased, and for his answer to the complaint of plaintiff herein alleges:

That the said Sophia M. Bristol was for more than fifteen years next prior to her death, which occurred on the eleventh day of August, 1894, a resident and citizen of the State of New York, and that James Bristol, the executor above named, is now and for more than fifteen years last past always has been a resident and citizen of the State of New York; that Washington county is a municipal corporation organized and existing under the laws of the State of Minnesota; that the said Sophia M. Bristol was not at the time of her death, and neither is her estate nor James Bristol, the executor of her said last will and testament, now indebted to said Washington county, Minnesota, in any sum whatever, either for taxes or

penalties or otherwise, nor are there any taxes of any kind due or owing from said estate or said executor to said Washington county.

The said executor denies that said Washington county has made pretended assessments of certain taxes against said Sophia M. Bristol on account of the property of said Sophia M. Bristol at the times and in the amounts set forth in the complaint of said Washington county herein, but that said taxes so pretended to be assessed were attempted to be assessed by said county of Washington and the officers and agents thereof on account of credits other than of bank, banker, or broker or stock jobber, belonging to said Sophia M. Bristol, situated in the county of Washington and State of Minnesota, on the 1st days of May in each of the years from A. D. 1883 to A. D. 1894, inclusive; that at no time during said
59 period did the said Sophia M. Bristol hold or own any such credits or personal property of any kind within the State of Minnesota, but that during said period said Sophia M. Bristol has loaned sums of money to various parties and taken promissory notes therefor and, as security therefor, mortgages on real estate situated in Washington county, Minnesota, but that during all of said time the said promissory notes have always been held and kept and controlled by said Sophia M. Bristol, at her home, in the State of New York, and not within the State of Minnesota or the said county of Washington, and none of the property on account of which said taxes were assessed was subject to taxation in the State of Minnesota, but the same and all thereof was situated and had its situs at the home of said Sophia M. Bristol, in the county of Wyoming and State of New York, and that during said time said Sophia M. Bristol has been duly assessed taxes on account of the same property and has been compelled to pay and has regularly paid taxes on account of the same to the town of Gainesville, Wyoming county, State of New York, and said Sophia M. Bristol has not been subject to the jurisdiction of the State of Minnesota, nor liable to be taxed therein.

That the said probate court of Ramsey county has no jurisdiction over any of the said property attempted to be assessed.

That the said will of Sophia M. Bristol was first probated in the surrogate's court of the county of Wyoming, State of New York, on the 27th day of August, A. D. 1894, which had jurisdiction thereof and of all the personal property of said Sophia M. Bristol, deceased; that the proceedings in the probate court of Ramsey county, Minnesota, are ancillary to the said proceedings in the surrogate's court of Wyoming county, New York, and only affect the property of said deceased within the State of Minnesota.

Said James Bristol, as executor aforesaid, further alleges that even if said property is subject to taxation in Washington county, Minnesota, that all the said taxes set forth in the claim filed have been unfairly and unequally assessed; that the same have
60 been assessed upon a valuation of the property assessed at amounts ranging between $165,000 and $196.772 from year to year during the period from 1884 to 1894, inclusive; that such valuation is largely in excess of the true value of said property assessed at the times when such taxes were assessed, and said James

Bristol, executor aforesaid, is informed and verily believes that at no time between May 1st, 1884, and May 1st, 1894, or on either of those days, has the true value of the property of said Sophia M. Bristol on which said taxes were assessed been more than $100,000.

Said defendant further alleges that if said taxes have been legally assessed, then all of said taxes assessed prior to the year 1889, as alleged in said complaint, had been due and payable, and the cause of action thereon accrued more than six years prior to the filing of the claim of plaintiff herein in the probate court of Ramsey county, Minnesota, as alleged in said complaint, and the claims of plaintiff for all such taxes, to wit, taxes levied during the years 1883 to 1888, inclusive, are barred by the statute of limitations of the State of Minnesota.

Said James Bristol, as executor, as a further defense alleges that said taxes have been assessed upon a valuation of said credits fixed at the amount payable thereon without regard to the true value thereof.

That said assessments and each of them have been attempted to be made under the provisions of section 28 of chapter 11 of the General Statutes of Minnesota of the year 1878, which provides that every credit for a sum certain payable in money shall be valued for the purpose of assessments of taxes at the full price of the same so payable; that said statute is contrary to section one of article nine of the constitution of the State of Minnesota and void, and said assessments of taxes and each of them are illegal and void.

Further answering, said James Bristol, executor aforesaid, alleges that the assessment, levy, and collection of said taxes and each of them *is* in violation of the Constitution of the United States in this, that thereby a citizen of New York is deprived of a privilege and immunity granted to the citizens of the State of Minnesota; also in that it deprives a person of property without due process of law,

and, further, in that thereby private property is taken for a
61 public use without just compensation, and the assessment, levy, and collection of said taxes and each of them are also contrary to the fourteenth amendment to the Constitution of the United States in this, that thereby the State of Minnesota is enforcing a law which does abridge the privileges and immunities of a citizen of the United States, and does deprive a person of property without due process of law, and does deny a person within its jurisdiction the *equal* protection of the laws.

That said assessment and levy of said taxes and each of them are also invalid and unconstitutional for the reason that by assessing and levying the same the State of Minnesota is attempting to assess and levy taxes on property situated out of the State of Minnesota, and to give its tax laws an extraterritorial jurisdiction.

That, save as hereinbefore admitted, said defendant, James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, denies each and every allegation in said complaint contained.

Wherefore said defendant demands that the complaint of plain-

tiff be dismissed, and that defendant recover his costs and disbursements.

BUNN AND HADLEY,
Defendant's Attorneys.

STATE OF MINNESOTA, } ss:
County of Ramsey, }

Emerson Hadley, being duly sworn, says that he is one of the attorneys for the defendant in the above-entitled action; that the foregoing answer is true to the best of his knowledge, information, and belief, and that the reason why this affidavit of verification is not made by said defendant is that he is absent from the said county of Ramsey, wherein reside his said attorneys.

EMERSON HADLEY.

Subscribed and sworn to before me this 14th day of August, 1895.

[NOTARIAL SEAL.]

WINTHROP G. NOYES,
Notary Public, Ramsey County, Minnesota.

(Endorsed:) Answer. Filed Aug. 15th, 1895. Oscar B. Hillis, clerk.

62 And on August 18th, 1896, the following reply was filed of record in said court, to wit:

63 Circuit Court of the United States, District of Minnesota, 3rd Division.

In the Matter of the Estate of SOPHIA M. BRISTOL.

The County of Washington, claimant in the above-entitled proceeding, for reply to the answer of James Bristol in the above-entitled cause, respectfully shows to the court:

First. As to the allegation in the fourth folio of said answer, to wit, "But that during all of said time the said promissory notes have always been held and kept and controlled by said Sophia M. Bristol at her home in the State of New York and not within the State of Minnesota or said county of Washington," this claimant has no knowledge or information sufficient to form a belief, and therefore denies the same.

Second. As to the allegation in the fifth folio of said answer contained, to wit, "But the same and all thereof are situate and had its situs at the home of said Sophia M. Bristol in the county of Wyoming and State of New York," this claimant has no knowledge or information sufficient to form a belief, and therefore denies the same.

Third. As to the allegation in the fifth folio of said answer contained, "And that during said time said Sophia M. Bristol has been duly assessed taxes on account of the same property, and has been

compelled to pay and has regularly paid taxes on account of the same to the town of Gainesville, Wyoming county, State of New York," the said Washington County, claimant herein, has no knowledge or information sufficient to form a belief, and therefore denies the same.

Fourth. As to the allegation in the seventh folio of said answer contained, to wit, "That all the said taxes set forth in the claim filed herein have been unfairly and unequally assessed," and also as to the allegation in the seventh and eighth folios of said answer contained, to wit, "That such valuation is largely in excess
64 of the true value of said property assessed at the times when such taxes were assessed, and that at no time between May 1st, 1884, and May 1st, 1894, or on either of those dates, was the true value of the property of said Sophia M. Bristol on which said taxes were assessed more than one hundred thousand dollars," and also as to the allegation in the ninth folio of said answer contained, to wit, "That said taxes have been assessed upon a valuation of said credits fixed at the amount payable thereon, without regard to the true value thereof," this claimant denies said allegations and each thereof.

Wherefore said Washington County, claimant as aforesaid, demands judgment as in the complaint in this proceeding first demanded.

L. L. MANWARRING,
CLAPP & MACARTNEY,
Attorneys for Claimant.

STATE OF MINNESOTA, }
County of Ramsey, } *ss:*

Alvin E. Macartney, being by me duly sworn, deposes and says that he is one of the attorneys for the claimant in the above-entitled action; that he has read the foregoing reply and knows the contents thereof, and that the same is true of his own knowledge except as to those matters which are therein stated upon information and belief, and as to those matters that he believes it to be true.

ALVIN E. MACARTNEY.

Subscribed and sworn to before me this 13th day of Jan'y, A. D. 1896.

[NOTARIAL SEAL.]

BELLA C. RANKIN,
Notary Public, Ramsey County, Minn.

(Endorsed:) Reply. Filed Aug. 18th, 1896. Oscar B. Hillis, clerk.

65 Thereafter and on the 24th day of August, 1896, the following order of court was entered of record in said cause, to wit:

66 United States Circuit Court for the District of Minnesota.

Term Minutes, June Term, A. D. 1896.

MONDAY MORNING, *August 24th*, 1896.

Court opened pursuant to adjournment.

Present: Hon. Wm. Lochren, judge; Hon. E. C. Stringer, U. S. district attorney; Hon. R. T. O'Connor, United States marshal; Oscar B. Hillis, clerk.

In the Matter of the Estate of SOPHIA BRISTOL, Deceased. Claim of Washington County for Taxes. E. Law. 1096.

A stipulation waiving a jury, signed by the attorneys for the respective parties in this action, having been duly filed of record and said cause now coming on to be heard upon written stipulation of facts, also duly filed of record, the same is argued on behalf of the claimant by Geo. H. Sullivan and Moses E. Clapp and on behalf of respondent by C. W. Bunn and Emerson Hadley; whereupon said cause is duly submitted and by the court taken under advisement.

Ordered that George H. Sullivan be, and he hereby is, admitted to practice as an attorney, solicitor, counsellor, and proctor in this court.

Whereupon the said George H. Sullivan takes the required oath and signs the roll of attorneys.

67 And thereafter and on the 21st day of June, 1898, the court filed its written decision in words and figures following, to wit:

68 *Decision.*

United States Circuit Court, District of Minnesota, Third Division.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In re Claim of Washington County, Minnesota.

In the settlement of this estate the County of Washington, Minnesota, claims a large sum as unpaid taxes assessed and levied against the personal estate of the deceased in her lifetime, taxable in said county of Washington during every year from 1883 to 1894, both years inclusive, together with penalties for non-payment and interest, all as stated and set forth in the statement of claim filed in the probate court and also in the complaint in this action.

The facts, so far as material, are stipulated and undisputed. Cyrus Jefferson, the father of Sophia M. Bristol, died in November, 1883. For 14 years before his death, being a citizen and resident of the State of New York, he loaned money to various persons residing in Minnesota upon their notes, payable to his order, secured by mortgages upon real estate in said Washington county and adjoining counties in said State of Minnesota. All these loans were

made and the notes and mortgages taken by and through William M. McClure, the agent of said Cyrus Jefferson, residing at Stillwater, in said Washington county, who, with full authority from said Cyrus Jefferson, made all such loans and took and retained all notes and securities and collected and reloaned the principal and interest and kept the same invested in that way, save as to such moneys as said Jefferson drew from time to time to pay his debts and defray his living expenses.

Shortly prior to May 1, 1883, said McCluer, by the direction of said Jefferson, loaned of said moneys to persons in said Washington county sums aggregating $18,000, taking notes and mortgages therefor, payable to said Sophia M. Bristol, and retained the same as her agent, and on the 18th of December, 1883, all other
69 notes and mortgages held by said McCluer as agent for said Cyrus Jefferson were assigned, passed, and transferred to said Sophia M. Bristol as her share of the estate of her said father, then recently deceased. She employed said William M. McCluer and also Charles M. McCluer as her agents at said Stillwater about said loaning business, giving to them all the authority before that time exercised by said William M. McCluer for her father, as aforesaid, and also a written power of attorney empowering them or either of them to satisfy and discharge or to sell and assign any and all mortgages then or thereafter in her name in the State of Minnesota and Wisconsin. All notes and mortgages of said Sophia M. Bristol were still left in the hands of these agents at Stillwater, and they continued to make collections, satisfy mortgages, and make new loans for said Sophia M. Bristol, keeping all of her moneys received or collected by them while in their hands deposited in bank as their own money and having all notes received for such loans made payable at their own office in said Stillwater, such notes being secured by mortgages in Washington and adjoining counties in Minnesota, as aforesaid.

In March, 1885, all of such notes then in the hands of said agents were delivered to said Sophia M. Bristol, and thereafter all new notes as taken by said agents in said business were sent to said Sophia M. Bristol at her home in New York; but all mortgages were retained by said agents, and said notes were returned to them whenever wanted for payment, renewal, or for foreclosure of securities. In August, 1890, said William M. McCluer died, and said Charles M. McCluer continued thereafter to act as sole agent for said Sophia M. Bristol, with the same powers as before, except that at some subsequent time she revoked the said written power of attorney, and thereafter executed satisfactions of mortgage herself. She never resided in said county of Washington, and had no taxable property therein other than the loans and indebtedness secured by mortgage upon lands in Minnesota under the charge and management of her said agents residing and having their office at Stillwater, in said Washington county, as aforesaid.

70 The question to be determined in this case is: Were the moneys and credits of said Sophia M. Bristol, so secured by

mortgages on lands in said Washington county and adjoining counties in Minnesota, taxable in said Washington county?

The power of taxation pertains to every sovereignty and is inseparable from it. Except as limited by the constitution, it is for the legislature to decide what persons and property shall be taxed and in what proportions and how taxes shall be assessed and collected. This authority extends to all persons and to all property within the territorial jurisdiction of the sovereignty, but cannot be extended to persons or property beyond its territorial limits. St. Louis *vs.* Ferry Co., 11 Wall., 423, 429, 430.

The statute of Minnesota, Gen. Stat. 1878, ch. 11, sec. 1: "All real and personal property in this State and all personal property of persons residing therein * * * is subject to taxation," is certainly broad enough to include personal property of every kind belonging to non residents having a situs within the State of Minnesota. *In re* Jefferson, 35 Minn., 215, 219.

If the situs of the personal property in question was in Minnesota, so that the property was within the jurisdiction and under the taxing power of that State, then its right and power to tax the property would not be affected by the fact that another State within whose jurisdiction the owner of the property resided had assumed to tax that owner in respect to the same property.

By a legal fiction the situs of personal property is for most purposes regarded as at the domicil of the owner, but this fiction cannot stand in the way of the taxing power of the sovereignty within whose territory the personal property has an actual location and situs. There is no difficulty in the case of tangible personal property, such as flocks, herds, merchandise, business outfits and appliances, and the like. Such property is visible, is protected by the laws of the sovereignty where situate, and subject to taxation there, irrespective of the residence of the owner.

71 A debt is an intangible species of property and ordinarily for purposes of taxation and all other purposes has no situs other than the domicil of the creditor. State Tax on Foreign-held Bonds, 15 Wall., 300; Kirtland *vs.* Hotchkiss, 100 U. S., 401.

But it has been held that where a creditor keeps his money for investment and reinvestment as a permanent business at a place other than his domicil, under the full control of an agent or agents resident at such place, he gives the debts a situs at the place where they are so created and managed, and they may be taxed there. This has been the decision of the highest courts of New York and Minnesota with reference to this very business of loaning money as carried on by Cyrus Jefferson through William M. McCluer. People *vs.* Smith, 88 N. Y., 576; *In re* Jefferson, 35 Minn., 215. This latter case cites many decisions sustaining the doctrine.

The fact that after March, 1885, the notes were sent to Mrs. Bristol in New York made no difference. Whether she regarded the notes as safer in her custody in New York State or had them sent in the hope of avoiding taxation in Minnesota is immaterial; the business remained under the full management and control of the agents at Stillwater as before. These very notes were by their terms

made payable at the office of those agents at Stillwater, and the notes were returned there for payment, renewal, foreclosure of securities, &c. Dundee Mortgage Co. *vs.* School District, 19 Fed., 359.

In the case just cited the court holds that a mortgage, whether considered as a conveyance or a mere contract giving a creditor a lien, is a contract affecting real property in the State and dependent on the State laws for its existence and enforcement, and hence may be taxed in the State without regard to the residence of the holder. In the case of Savings & Loan Soc. *vs.* Multnomah County, 18 Sup. Ct. Rep., 392, decided in March, 1898, the Supreme Court of the United States holds that the Oregon statute taxing as real
72 estate all mortgages on realty in that State is valid, though the owners reside in other States and have their notes and mortgages in their possession. The fact that the Oregon statute taxes mortgages on land as real estate is of no importance and merely formal, as the case concedes that by the law of Oregon a mortgage of land conveys no legal title and creates only a lien or incumbrance for the security of the debt. It cites with approbation the cases of Mumford *vs.* Sewall, 11 Or., 67, and Dundee Mortgage Co. *vs.* School Dist., 19 Fed., 359, which held that mortgages on real estate are taxable by the State without reference to the domicil of the owner. It appears to endorse that doctrine and explains and limits the language used in the previous cases of State Tax on Foreign-held Bonds, 15 Wall., 300, and Kirtland *vs.* Hotchkiss, 100 U. S., 491, which seemed to hold a contrary doctrine.

Under this last decision of the Supreme Court of the United States the personal property of Sophia M. Bristol consisting of debts secured by mortgages on lands in Minnesota was taxable in this State, and under the Minnesota statute it was properly listed and assessed in Washington county, where her agent resided. The claim of Washington must therefore be sustained.

Counsel will prepare and present findings in conformity with this opinion.

June 20, 1898.

WM. LOCHREN, *Judge.*

(Endorsed:) Decision. Filed June 21st, 1898. Henry D. Lang, clerk.

73 And on June 28th the court filed its finding and *and* order for judgment in words and figures following, to wit:

74 United States Circuit Court for the District of Minnesota.

Term Minutes, June Term, A. D. 1898.

WEDNESDAY MORNING, *June 28th*, 1898.

Court opened pursuant to adjournment.

Present: Hon. Charles F. Amidon, judge; Hon. Robert G. Evans, U. S. district attorney; Hon. R. T. O'Connor, U. S. marshal; Henry D. Lang, clerk.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased. *In re* Claim of Washington County, Minnesota. E. Law. 1096.

This action was originally commenced by filing of a duly verified claim of Washington county for personal property taxes in the sum of sixty-four thousand six hundred eighty-four and $\frac{78}{100}$ dollars ($64,684.78) and interest against the estate of Sophia M. Bristol, in the probate court of Ramsey county, Minnesota, on April 18, 1895. That thereafter and on April 29, 1895, James Bristol, as executor of the last will and testament of said Sophia M. Bristol, deceased, made answer and written objections to said claim in said probate court of Ramsey county, Minnesota.

That thereafter such proceedings were duly had that upon the petition of said James Bristol, as such executor, showing, among other things, that he was a citizen of the State of New York at the time said claim was so filed against said estate in said probate court, this proceeding and cause was duly removed from said pro-
75 bate court of Ramsey county to this court, and such proceedings were duly had therein that the same came on for trial before the court without a jury, the parties having duly waived a jury trial.

Messrs. Clapp & Macartney, L. L. Manwaring, and George H. Sullivan appeared as attorneys for claimant, Washington County, and Messrs. Bunn and Hadley appeared as attorneys for said estate of Sophia M. Bristol, deceased.

And the parties having duly submitted their evidence and stipulation of facts, after due consideration thereof the court doth find as facts therein:

I. That Cyrus Jefferson was the father of said Sophia M. Bristol, deceased, and died in November, 1883. For fourteen years just prior to his death he was a citizen and residents of the State of New York, and during said time loaned and invested large sums of money to various persons residing in Minnesota, upon their notes, payable to his order at said Stillwater, secured by mortgages on real estate in said Washington and adjoining counties in the State of Minnesota; all said loans and investments were made and the notes and mortgages taken by and through William M. McCluer, the agent of said Cyrus Jefferson, who resided at the city of Stillwater, in said Washington county, during all the time hereinafter mentioned, and who, with full authority from said Cyrus Jefferson, made all such loans and took and retained all notes and securities and collected and reloaned both the principal and interest of said loans at said city of Stillwater, in Washington county, Minnesota, and kept the same permanently invested in that way, as nearly as practicable, save as to such moneys as said Jefferson drew from time to time to pay his debts and living expenses.

II. Prior to May 1, 1883, said William M. McCluer, at said Stillwater, by the direction of said Jefferson, but otherwise with the same power and under the same authority and in the same manner, loaned of said moneys of said Cyrus Jefferson to persons in Wash-

ington county sums aggregating eighteen thousand dollars
76 ($18,000.00), taking notes and mortgages therefor in the name of and payable to said Sophia M. Bristol at said Stillwater, and retained the same as her agent, and handled and collected and reinvested the same in the same manner as he had those of Cyrus Jefferson.

III. After the death of said Cyrus Jefferson and on December 18, 1883, all the other notes and mortgages held by said McCluer as agent for said Cyrus Jefferson were transferred, assigned, and passed to said Sophia M. Bristol as her share of the estate of her said father. She thereupon employed said William M. McCluer and Charles M. McCluer, both of whom then and at all times herein mentioned resided at said Stillwater, as her agents at said city of Stillwater in and about said loaning business. She gave to them all the authority before that time exercised by said William M. McCluer for her father, Cyrus Jefferson, as aforesaid, and also gave to them a written power of attorney empowing them or either of them to satisfy and discharge or to sell and assign any and all mortgages then or thereafter in her name in the States of Minnesota or Wisconsin; all of said notes and mortgages of said Sophia M. Bristol, including those received by her as her share of her father's estate as well as those taken in her name by said William M. McCluer prior to the death of her father, as aforesaid, were still left by her in the hands of her agents in Stillwater, Minnesota, and said agents continued as before to make collections of both principal and interest due on said notes and mortgages, to satisfy and discharge mortgages, and to make new loans and investments upon like securities with the moneys so collected by them for said Sophia M. Bristol, and kept all of her moneys received or collected by them prior to transmittal or reinvestment of the same, and while in their hands, deposited in bank in said Stillwater as their money, and having all notes and mortgages received by them for such loans made payable at their own office in said city of Stillwater, said mortgages being upon lands in Washington and adjoining counties in Minnesota.

77 IV. In March, 1885, all of such notes then in the hands of said agents were delivered to said Sophia M. Bristol, and thereafter all new notes as taken by said agents in said business were sent to Sophia M. Bristol and kept by her at her home in New York, but were payable as before at the office of said agents in Stillwater, Minnesota; all mortgages securing such notes were retained by said agents, and said notes were returned to said agents at Stillwater by said Sophia M. Bristol from time to time whenever required by them for the purpose of renewal, payment, collection, or foreclosure of securities; that the said Wm. M. McCluer and Charles M. McCluer continued as agents for said Sophia M. Bristol, collecting money becoming due upon said notes and making loans in her name, sometimes under the direction of James Bristol, her husband, but generally upon their own judgment; that they remitted money to Sophia M. Bristol when she called for the same, and what was not received by her was invested in new loans, as aforesaid.

That said Sophia M. Bristol did receive from the proceeds of said collections at various times large sums of money through said agents, and all moneys collected were always subject to be sent to her or paid out in any way she should order.

V. In the month of August, 1890, said William M. McCluer died, and thereafter said Charles M. McCluer continued to act as sole agent for said Sophia M. Bristol at said city of Stillwater, Minnesota, with the same power as before exercised by him and said William M. McCluer, except that in November, 1890, Sophia M. Bristol revoked said power of attorney which authorized said agent to satisfy mortgages of record, and thereafter executed satisfactions of mortgages herself.

VI. Said loaning business was so carried on by said Sophia M. Bristol by and through her said agents at the city of Stillwater, Minnesota, in the manner aforesaid until her death, in the month of August, 1894.

VII. Said Sophia M. Bristol had no taxable property in said Washington county during any of the years hereinbefore or
78 hereinafter mentioned other than the loans and indebtedness mentioned, which were secured by mortgages upon lands in Minnesota, and which were under the charge and management of her said agents, who, during all said years and during all the time within which the taxes hereinafter mentioned were assessed and levied, resided and had their office and transacted said loaning business at the said city of Stillwater, in said county and State.

VIII. That the moneys originally sent by said Jefferson to said William M. McCluer and invested and reinvested by said McCluer, and afterwards by said Sophia M. Bristol kept and retained in the hands of said William M. McCluer and Charles M. McCluer as her agents, were so sent, retained, and kept in the hands of said agents in the city of Stillwater, Washington county, Minnesota, in and during each of the years when the taxes hereinafter mentioned were assessed and levied against said Sophia M. Bristol, as hereinafter specifically set forth, as and for a permanent investment and business under the full control of said agents, and said property and said loans acquired and had a situs in said city of Stillwater, Washington county, Minnesota, for the purpose of taxation.

IX. That the claimant herein, Washington County, is and for more than thirty years last past has been a municipal corporation, to wit, an organized county created and existing under and pursuant to the laws of the State of Minnesota.

X. That in and during each of the years from 1883 to 1894, inclusive, certain personal property taxes were duly assessed and levied against said Sophia M. Bristol by the proper taxing officers of said city of Stillwater and said Washington county on the personal property of said Sophia M. Bristol, deceased, consisting of the "credits other than that of bank, banker, broker, or stock jobber," and that said assessments were each in fact based upon credits due said Sophia M. Bristol on promissory notes of various persons residing in Washington county and other counties in Minnesota, payable to her order, secured by mortgages on real estate situate in

Washington county and other counties in the State of Minnesota.

79 Said notes were all made payable at the office of William M. McCluer or Charles M. McCluer, at the city of Stillwater. The assessed valuation of said personal property upon which said taxes were so assessed and levied for each of said years, the rate of the tax assessed upon property in the said city of Stillwater, in said county, that being the district where said property was assessed, in the number of mills levied on each dollar of property at the assessed valuation for each of said years, and the amount of said taxes so assessed and levied against said Sophia M. Bristol, deceased, for each of said years, are as set forth in the following schedule thereof, to wit:

Year.	Rate.	Valuation.	Tax.
	Mills.		
1883	26.9	17,900	481.51
1884	26.66	184,900	4,287.40
1885	26	174,900	4,547.40
1886	26	189,900	4,937.40
1887	29	192,137	5,571.97
1888	28	196,672	5,506.82
1889	34	181,292	6,163.93
1890	31	179,900	5,576.90
1891	31	179,900	5,576.90
1892	35	179,900	6,296.50
1893	30	179,900	5,397.00
1894	26	179,900	4,677.40

That the said Sophia M. Bristol failed and neglected to pay said taxes on the first day of March in each of the years following that in which said taxes were respectively levied, as hereinbefore set forth, or at any time thereafter, and that by reason of such failure said Sophia M. Bristol became and was and is liable to pay a penalty amounting to five per cent. on the amount of said taxes for the years 1883 to 1894, and ten per cent. on the amount of said taxes for each year thereafter, and that the amount of said penalty for each of said years is as follows—that is to say:

Year.	Penalty.	Year.	Penalty.
1883	24.07	1888	550.68
1884	214.37	1889	616.39
1885	454.74	1890	557.69
1886	493.74	1891	557.69
1887	557.19	1892	629.65
		1893	530.70
		1894	467.74

80 XI. Said Sophia M. Bristol never resided in Washington county nor in the State of Minnesota at any time nor was she within the State of Minnesota from March 1, 1883, until her death, in August, 1894, except temporarily, and that the whole period of time she spent in the State of Minnesota from March 1, 1883, until her death did not exceed one year.

XII. On or about the nineteenth day of October, 1894, the will of said Sophia M. Bristol was duly admitted to probate in and by the probate court of Ramsey county, in the State of Minnesota, and such proceedings were had in the matter of said estate that James Bristol, the executor named in said will, was duly appointed by said court as the executor of said last will and testament and of said estate, and the said James Bristol thereupon duly qualified as such executor and entered upon the discharge of his duties as such, and thereafter and on the eighteenth day of April, 1895, and within the time required by the order duly made by said probate court for filing claims against the estate of said Sophia M. Bristol, deceased, said claimant, Washington County, duly made and filed its verified claim in due form for all of the said taxes and the said penalties, together with interest upon the amount of said taxes and penalties for each year from and after the first day of March, in the year after the year in which said taxes were levied, as aforesaid.

XIII. That the said Sophia M. Bristol was and for more than fifteen years next prior to her death has been a resident and citizen of the State of New York, and said James Bristol, the executor above named, is now and for more than fifteen years last past always has been a resident and citizen of the State of New York.

XIV. The court further finds that all of the taxes hereinbefore mentioned were fairly and equally assessed on a fair valuation of the personal property of said Sophia M. Bristol, deceased, for each of the years hereinbefore mentioned, and that no part of said taxes has ever been paid.

81 As conclusions of law the court finds:

That the said claimant, Washington County, is entitled to judgment herein in its favor and against the estate of Sophia M. Bristol, deceased, for the sum of sixty-four thousand six hundred eighty-four and $\frac{78}{100}$ dollars ($64,684.78), being the amount of said taxes and said penalties, together with the costs and disburse-

ments, to be taxed, and that said claim of said amount is a just and valid claim against the estate of Sophia M. Bristol, deceased.

Let judgment be rendered accordingly.

WM. LOCHREN, *Judge.*

(Endorsed:) Filed findings and order for judgment. Filed July 19th, 1898. Henry D. Lang, clerk.

The foregoing is amended as settled by the court yesterday.

BUNN & HADLEY,
Att'ys for Def't.

7, 19, '98.

82 Thereafter and on the same day the following judgment was entered of record in said cause, to wit:

83 United States Circuit Court for the District of Minnesota.

Term Minutes, June Term, A. D. 1898.

JUNE 29TH, 1898.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In re Claim of Washington County, Minnesota.

It is therefore considered, ordered, and adjudged—

That the County of Washington, the claimant in this case, do have and recover of and from the estate of Sophia M. Bristol, deceased, the sum of sixty-four thousand six hundred eighty-four dollars and seventy-eight cents ($64,684.78), so found to be due by the court, and that said sum of sixty-four thousand six hundred eighty-four dollars and seventy-eight cents ($64,684.78) is a just and valid claim against the estate of Sophia M. Bristol, deceased, in favor of said Washington County, besides the costs and disbursements herein to be taxed.

WM. LOCHREN, *Judge.*

It is hereby stipulated that the above and foregoing may stand as the judgment in the above-entitled proceeding in the place of the judgment heretofore entered, and that the above and foregoing may be entered *nunc pro tunc* as of June 29th, 1898.

BUNN & HADLEY,
Att'ys for Defendant.

(Endorsed:) Judgment. Filed July 19th, 1898. Henry D. Lang, clerk.

83¼ And thereafter, on the 1st day of July, the following stay was entered of record in said cause, to wit:

83½ United States Circuit Court for the District of Minnesota.

Term Minutes, June Term, A. D. 1898.

FRIDAY MORNING, *July 1st*, 1898.

Court opened pursuant to adjournment.

Present: Hon. Charles F. Amidon, judge; Hon. Robert G. Evans, U. S. district attorney; Hon. R. T. O'Connor, U. S. marshal; Henry D. Lang, clerk.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased. *In re* Claim of Washington County, Minnesota. E. Law. 1096.

On application of the respondent herein, it is hereby ordered that the issuance of execution upon the judgment rendered in the above-entitled action on the 29th day of June, 1898, and all proceedings for the enforcement of said judgment are hereby stayed for forty-two (42) days from this date for the purpose of giving the respondent an opportunity to settle the bill of exceptions and move for a new trial and take such other proceedings as they may be advised.

Dated St. Paul, July 1, 1898.

WM. LOCHREN, *Judge.*

84 And on the same day the following bill of exceptions was filed of record in said cause, to wit:

85 United States Circuit Court, District of Minnesota, Third Division.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In re Claim of Washington County, Minnesota.

Bill of Exceptions.

The above-entitled action came on duly for trial at the June, 1896, term of the above court, held at St. Paul, on the twenty-fourth day of August, 1896. Messrs. Clapp & Macartney, L. L. Manwaring, and George H. Sullivan appeared as attorneys for the claimant, Washington County, and Messrs. C. W. Bunn and Emerson Hadley appeared as attorneys for James Bristol, executor of the estate of Sophia M. Bristol, deceased. It was duly stipulated that this action should be tried by the court without a jury.

"United States Circuit Court, District of Minnesota.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In re Claim of Washington County.

It is hereby stipulated between the parties hereto as follows:

That the duplicate tax-lists for the city of Stillwater were duly certified by the county auditor and were duly delivered by said

county auditor to the county treasurer of said county for each of the years from 1883 to 1894, inclusive, and that they contain a tax assessed against Sophia M. Bristol upon personal property in the respective amounts set forth in the complaint herein for the respective years therein enumerated, and that they also give the assessed valuation of the personal property of the said Sophia M. Bristol upon which said taxes are so assessed and the rate of the tax assessed upon the property in the city of Stillwater, in said county, that being the district where said property was assessed, in the number of mills levied on each dollar of property, at the assessed
86 valuation for each of said years, as stated in the following schedule, to wit:

Year.	Rate.	Valuation.	Tax.
	Mills.		
1883	26.9	17,900	481.51
1884	26.66	184,900	4,287.40
1885	26	174,900	4,547.40
1886	26	189,900	4,937.40
1887	29	192,137	5,571.97
1888	28	196,672	5,506.82
1889	34	181,292	6,163.93
1890	31	179,900	5,576.90
1891	31	179,900	5,576.90
1892	35	179,900	6,296.50
1893	30	179,900	5,397.00
1894	26	179,900	4,677.40

and this stipulation shall have the same force and effect as the introduction of said tax duplicates in evidence.

It is further stipulated that said taxes were all assessed under the heading 'Credits other than that of bank, banker, broker, or stock jobber,' and that said assessments were each in fact based upon credits due said Sophia M. Bristol on promissory notes of various persons residing in Washington county and other counties in Minnesota payable to her order, secured by mortgages on real estate situate in Washington county and other counties in the State of Minnesota. Said notes were all made payable at the office of William M. McCluer or Charles M. McCluer at the city of Stillwater; that the assessor for the county of Washington for the year 1887 was A. Frederick; that he made up a list of the property assessable in that city and fixed the valuation thereon, and on August 10th, 1887, delivered the assessment books to the county auditor of Washington county, Minn.

87 That the assessment book for said year 1887, which contained the assessment of property in the city of Stillwater, included in which was the assessment against Sophia M. Bristol of

$192,337.00 for 'Credits other than that of bank, banker, broker, or stock jobber,' was not sworn to by the assessor, as provided in section 41 of chapter 11 of the General Statutes of Minnesota for the year A. D. 1878, or at all; that the blank form of oath of the assessor was made out and attached to said assessment book and signed by said assessor, A. Frederick.

That no part of any of said taxes so shown upon said several tax duplicates have ever been paid.

That Cyrus Jefferson was for more than fifteen years prior to his death a resident and citizen of the State of New York; that he died in the month of November, A. D. 1883, and that for 14 years prior to his death he had loaned money upon notes of various parties residing in Minnesota, payable to his order, and taken as security mortgages upon real estate in Washington county, Minn, and also to a less extent in other counties in Minnesota adjoining Washington county.

That in making these loans William M. McCluer, a resident of Stillwater, in Washington county, acted as agent for said Cyrus Jefferson; that from 1875 until the death of the said Jefferson said McClure as his agent had authority to and did carry on a very considerable business in loaning money secured by mortgages on real estate in said counties; that the principal and interest of such loans were paid to and collected by him, and such accumulations of principal and interest was paid and collected and reloaned and reinvested by said McCluer upon like securities, so that the same was kept and remained so invested during all of said time, and was not returned to said Jefferson except such money as said Jefferson had drawn from time to time to pay his debts and living expenses.

That prior to May 1st, 1883, said McCluer, under the direction of said Jefferson, loaned to various parties in Washington county,
Minn., sums aggregating eighteen thousand dollars ($18,000),
88 taking notes therefor, secured by mortgage in like manner,
as above set forth, except that the notes and mortgages were payable to Sophia M. Bristol; that on the 18th day of December, A. D. 1883, the notes and mortgages then unpaid that had been taken by said Cyrus Jefferson, through his said agent, William M. McCluer, including both those standing in the name of Cyrus Jefferson and those in the name of Sophia M. Bristol, were indorsed and assigned to said Sophia M. Bristol as her share in the estate of her father, the said Cyrus Jefferson; that thereupon she employed William M. McCluer and Charles M. McCluer as her agents at Stillwater, and, in addition to their general authority to collect and reloan the funds of said estate, as hereinafter stated, gave them a power of attorney authorizing and empowering them or either of them to satisfy and discharge or sell and assign all mortgages then or thereafter of record in her name in the States of Minnesota and Wisconsin; that she left said notes and mortgages in the possession of said Wm. M. McCluer and Chas. M. McCluer, and as her agents they had authority to make collections of loans, both interest and principal, as they became due upon said notes, and to satisfy the mortgages when they were paid; that they also had, in addition to said power of attorney, authority

to and did invest and reloan on similar securities such of the proceeds of said collections, of both principal and interest, as said Sophia M. Bristol did not direct them to remit to her or otherwise pay upon her order, taking promissory notes, payable to the order of Sophia M. Bristol, at their office in Stillwater, Minn., secured by mortgages upon lands in Minnesota, principally in Washington county; that in March, 1885, all the said notes then unpaid, including both those received from her father's estate and those taken afterwards in her name, were delivered by said William M. McCluer and Charles M. McCluer to said Sophia M. Bristol, and from that time on the notes were kept in the possession of said Sophia M. Bristol, at her residence, in Wyoming county, New York, but the mortgages securing such notes and other notes subsequently taken were recorded in the respective counties where the mortgaged property was situated, and thereafter always remained in the
89 possession of Wm. M. McCluer and Charles M. McCluer, said agents, at their office, in said Stillwater, and after the death of William M. McCluer, which occurred in August, 1890, in the possession of said Charles M. McCluer, at Stillwater, Minn.

That the said Wm. M. McCluer and Chas. M. McCluer continued as agents for said Sophia M. Bristol, collecting money becoming due upon said notes and making loans in her name, sometimes under the direction of James Bristol, her husband, but generally upon their own judgment; that they remitted money to Sophia M. Bristol when she called for the same, and what was not required by her was invested in new loans, as aforesaid.

That said Sophia M. Bristol did receive from the proceeds of said collections, at various times, large sums of money through said agents, and all moneys collected were always subject to be sent to her or paid out in any way she should order.

That whenever a new loan was made after March, 1885, the note was taken by said McCluers and sent by them to said Sophia M. Bristol and kept in her possession, at her home, in the State of New York, and the mortgage was retained by her said agents, at Stillwater; that when a note became due, or was about to be paid, or was required for renewal or foreclosure or mortgage, the note was forwarded by said Sophia M. Bristol to her said agents, and in some cases said agents made collections and sent for the note, and the same was forwarded to them to be delivered to the maker.

That after the death of William M. McCluer the said Chas. M. McCluer acted as sole agent in the same way that the two had acted previously, except that on October 31, 1890, said Sophia M. Bristol executed a written revocation of the power of attorney of said Charles M. McCluer, above referred to; that said revocation was mailed by said Sophia M. Bristol, at Gainesville, New York, to said Charles M. McCluer on October 31st, 1890, and received by him in due course of mail a few days thereafter; that said Chas. M. McCluer was then directed by said Sophia M. Bristol to file said revocation in the office of the register of deeds of said Washington county, but he failed to do so, and either lost or destroyed the same.

90 That thereafter and in October, 1893, a second revocation of said power of attorney was made by said Sophia M. Bristol and then forwarded to said Charles M. McCluer, and the same was recorded in the office of the register of deeds in said Washington county on the 14th day of February, A. D. 1893.

That the said Charles M. McCluer continued until his death, in October, 1894, as the agent of said Sophia M. Bristol to collect moneys and reloan as theretofore, except that after the revocation of said power of attorney as aforesaid he had no authority to satisfy mortgages or assign the same, and such papers were forwarded by said McCluer to said Sophia M. Bristol for execution and were executed and returned to said McCluer for delivery.

It is admitted that the taxes sought to be recovered in this proceeding were assessed upon the said loans made by the said William M. McCluer and Charles M. McCluer as aforesaid and the credits due said Sophia M. Bristol thereon, and that she had no other taxable property in the county of Washington.

That nearly all the personal property which said Sophia M. Bristol received from her father's estate consisted of the loans made by said McCluers for said Jefferson as aforesaid.

That during each of the years from 1883 to 1894, inclusive (except the year 1893), the assessor of the city of Stillwater, in the month of May in each of said years, called upon said McCluers and requested them to list and make out, as agents of said Sophia M. Bristol, upon the blank form furnished by said assessor, a statement of all personal property of said Sophia M. Bristol, their principal, and under their, McCluers', control; that the said McCluers and each of them refused to list the same or to furnish a statement thereof, and during all the time herein mentioned Sophia M. Bristol was a resident and citizen of the town of Gainesville, Wyoming county, New York, and was not within the State of Minnesota except temporarily, and in all not to exceed six months during said time.

91 That at all the times hereinbefore mentioned each of said McCluers until their death resided in Stillwater, Minnesota, and had their office and place of business at said place, where said loans were made and made payable and paid.

It is also admitted that during all the time hereinbefore mentioned the said James Bristol has been and now is a resident and citizen of the State of New York, and he is the same person who is executor herein of the last will and testament of Sophia M. Bristol.

That at all the times hereinbefore mentioned the said McCluers, and after the death of William McCluer the said Chas. M. McCluer, kept all the money received and collected by them or either of them hereinbefore referred to in their bank account at Stillwater, Minnesota, in their own name or names, subject to their check, so long as the same remained in their hands.

It is further stipulated that either party may upon the submission

of this case object to the materiality of any statement herein contained.

It is stipulated by and between the parties hereto that, in addition to the foregoing statement of facts agreed to herein, the plaintiff, Washington County, may offer in evidence the deposition of George C. Otis, taken in certain proceedings in the probate court of Washington county, Minnesota, entitled In the matter of the last will and testament of Cyrus Jefferson, upon the allowance of the claim of Washington county for taxes for the years 1882 and 1883, which taxes were assessed to said Cyrus Jefferson, deceased, on account of the loans made by said Wm. M. McCluer as agent for said Cyrus Jefferson, as shown in the foregoing stipulation, a copy of which is hereto attached, marked 'Exhibit A;' that the defendant objects to the admission of said deposition in evidence on the ground that the same is incompetent, irrelevant, and immaterial, but stipulates that copy may be offered with the same force and effect as if the original deposition was produced from the files of the probate court properly identified and offered.

92 It is further stipulated that the plaintiff may also offer in evidence the statement hereto attached to the testimony of Wm. M. McCluer, marked 'Exhibit B,' given before the probate court in the proceeding aforesaid, and that the same shall be of the same force and effect as if plaintiff produced a witness who testified that he was present at the said trial in the probate court in Washington county in 1885 and heard William M. McCluer testify to the matters stated in Exhibit B, and of no other or greater effect; that the defendant objects to the introduction of said statement in evidence, on the ground that the same is incompetent, irrelevant, and immaterial.

That the court upon the hearing of this case shall rule upon the admissibility of said deposition, and also said statement of the evidence of William M. McCluer, and either party may take an exception to the ruling of the court.

It is further stipulated that the witnesses named in the statement hereto attached, marked Exhibit 'C,' were duly sworn, and that the taxes mentioned by said witnesses were assessed and paid for the years testified, and each testified as therein stated; that said Exhibit 'C' may be offered in evidence with the same effect as if the said witnesses were each produced in court and sworn on behalf of said estate and testified as stated in said Exhibit 'C,' and that said Washington County may object to the reception of any part of the evidence contained in said statement on the ground that the same or any part thereof is irrelevant, incompetent, or immaterial, and that the court, upon the hearing of this cause, shall rule upon the admissibility of the evidence contained in said statement, or any part thereof, and that either party may take an exception to the ruling of the court upon such objection.

Entering into this stipulation shall not be deemed, as to the county

of Washington, any waiver of its rights to insist upon the remanding of this cause to the probate court of Ramsey county.

93 LOUIS L. MANWARING,
Attorney for Claimant.
BUNN & HADLEY,
Att'ys for Def't."

CLAPP & MACARTNEY,
Of Counsel for Claimant.

Ramsey county. Dated Feb'y 10, 1896.

The deposition of George C. Otis, which was taken in certain proceedings in the probate court of Washington county, was then offered in evidence by the claimant, and admission of the same in evidence was objected to by the defendant on the ground that it was incompetent, irrelevant, and immaterial; which objection was sustained; to which claimant excepted.

Plaintiff further offered in evidence the statement of testimony of William M. McCluer given before the probate court of Washington county, and the same was objected to by the defendant on the ground that the same was incompetent, irrelevant, and immaterial, and objection was sustained by the court.

To which claimant excepted.

The defendant then offered in evidence the deposition- of certain witnesses tending to prove that Sophia M. Bristol had paid taxes upon the property referred to in the stipulation at her home at Gainesville, in the State of New York, during the same period for which taxes sought to be recovered in this action were levied. Said depositions were objected to by the claimant on the ground that they were immaterial, and said objection was sustained.

No further testimony being offered, the case was closed, and thereupon questions of law were argued to the court. The counsel for the defendant claimed, among other things, that the assessment, levy, and collection of the taxes referred to in the complaint herein was in violation of the Constitution of the United States, in that thereby a citizen of New York was deprived of the privilege and immunity granted citizens of the State of Minnesota, and also
94 that thereby Sophia M. Bristol and her executor were deprived of their property without due process of law.

The foregoing and attached bill of exceptions being duly presented to this court on the 18th day of July, A. D. 1898, that being one of the days of the June, A. D. 1898, general term, the same term at which said action was determined, and the same being by me duly examined and found conformable to the truth of the case and containing all the evidence offered at said trial, are hereby allowed, signed, and made a part of the record thereof.

WM. LOCHREN,
Judge of the District Court, State of Minnesota.

(Endorsed:) Bill of exceptions. Filed July 19th, 1898. Henry D. Lang, clerk.

95 Thereafter and on August 1st, 1898, the following assignment of errors was filed of record in said cause, to wit:

96 Circuit Court of the United States, District of Minnesota, Third Division.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In re Claim of Washington County, Minnesota.

Now comes James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, and alleges that in the above-entitled cause the above-named court in its decision and judgment has committed a manifest error against the estate of Sophia M. Bristol and against this defendant, as will more fully appear upon the record of the proceedings in said cause, and said defendant, James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, prays a writ of error to the Supreme Court of the United States in accordance with law.

Dated August 1st, 1898.

JAMES BRISTOL,
As Executor of the Last Will and Testament of Sophia M. Bristol, Deceased,
By C. W. BUNN AND
EMERSON HADLEY,
His Attorneys.

97 Circuit Court of the United States, District of Minnesota, Third Division.

In the Matter of the Estate of SOPHIA M. BRISTOL, Deceased.

In re Claim of Washington County, Minnesota.

Assignment of Errors.

Now comes James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, and assigns the following errors in the judgment of this court in the above-entitled action, namely:

1. The court in and by said judgment held that the taxes assessed and levied by the county of Washington, State of Minnesota, against Sophia M. Bristol, a citizen and resident of the State of New York, in the years 1883 to 1894, inclusive, upon property situate in the State of New York, which are sought to be collected in this action, were valid taxes, and the enforcement of the same does not violate the provisions of the Constitution of the United States, which provides that no State shall deprive any person of life, liberty, or property without due process of law.

2. The court in and by said judgment held that the taxes assessed and levied by the county of Washington, State of Minnesota, against Sophia M. Bristol, a citizen and resident of the State of New York,

in the years 1883 to 1894, inclusive, upon property situate in the State of New York, were valid taxes and did not violate the provisions of the Constitution of the United States, which provides that the citizen- of each State shall be entitled to all privileges and immunities of citizens in the several States.

3. The court in and by said judgment held that the taxes assessed and levied by the county of Washington, State of Minnesota, against Sophia M. Bristol, a citizen and resident of the State of New York, in and for the years 1885 to 1894, inclusive, upon property
98 situate in the State of New York, were valid taxes, and the enforcement of the same does not violate the provisions of the Constitution of the United States, which provides that no State shall deprive any person of life, liberty, or property without due process of law.

4. The court in and by said judgment held that the taxes assessed and levied by the county of Washington, State of Minnesota, against Sophia M. Bristol, a citizen and resident of the State of New York, for the years 1891 to 1894, inclusive, upon property situate in the State of New York were valid taxes, and the enforcement of the same does not violate the provisions of the Constitution of the United States, which provides that no State shall deprive any person of life, liberty, or property without due process of law.

5. The court in and by said judgment held that the State of Minnesota may assess, levy, and collect taxes upon property situated outside of the State of Minnesota belonging to a person not a resident of the State of Minnesota, and that such assessment, levy, and collection were not in violation of the Constitution of the United States.

6. The court in and by its eighth finding of fact found that the situs of the indebtedness due Sophia M. Bristol, deceased, upon which the taxes in controversy were assessed, at the times when said taxes for the years 1883 to 1894, inclusive, and each of them were assessed, was in the city of Stillwater, in the county of Washington and State of Minnesota, whereas the stipulated facts show that the situs of said indebtedness was at each of said times at the home of Sophia M. Bristol, in the State of New York.

7. The said court in and by its said judgment held that the situs of the property of Sophia M. Bristol, on which the taxes in a controversy were assessed and levied, was in Washington county, State of Minnesota, at the several times when said taxes in and for the year- 1883 to 1894, inclusive, and each of them were assessed, whereas the stipulated facts show that the situs of said property taxed was not in the State of Minnesota, but in the State of New York.

99 8. The court in and by its said judgment held that the situs of the credits of Sophia M. Bristol, on which the taxes in question were assessed, was in Washington county, Minnesota, after March, 1885, when the notes evidencing the same were in the possession of said Sophia M. Bristol at her home in New York State.

9. The court in and by its said judgment held that the situs of the credits of Sophia M. Bristol, on which the taxes in question were

assessed, was at the home of her agent in Stillwater, Washington county, Minnesota, after November, 1890, when the authority of her said agent to satisfy and assign mortgages had been revoked and when the notes evidencing said credits were in the possession of Sophia M. Bristol at her home in the State of New York.

Dated August 1st, 1898.

C. W. BUNN &
EMERSON HADLEY,
Attorneys for James Bristol, as Executor of the Last Will and Testament of Sophia M. Bristol, Deceased.

(Endorsed:) Petition for writ of error and assignment of errors. Filed August 1st, 1898. Henry D. Lang, clerk.

100 And afterwards, on the 1st of August, 1898, the following bond was filed of record in said cause in words and figures as follows, to wit:

101 Know all men by these presents that we, R. C. Jefferson and James Kasson, both of St. Paul, Minnesota, are held and firmly bound unto the County of Washington, State of Minnesota, in the full and just sum of twenty-five thousand ($25,000.00) —, to be paid to the said County of Washington, its attorneys or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 29th day of July, in the year of our Lord one thousand eight hundred and ninety-eight.

Whereas lately, in the circuit court of the United States, district of Minnesota, third division, in a suit pending in said court and entitled In the matter of the estate of Sophia M. Bristol, deceased; *In re* claim of Washington county, judgment was rendered against the said estate of Sophia M. Bristol, deceased, and against James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, and the said James Bristol, executor of the last will and testament of Sophia M. Bristol, deceased, having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation, directed to the said County of Washington, State of Minnesota, citing and admonishing it to be and appear at the Supreme Court of the United States within thirty (30) days from the date thereof:

Now, the condition of the above obligation is such that if the said James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, shall prosecute said writ of error to effect and answer all damages and costs if he shall fail to make his plea good, then the above obligation to be void; otherwise to remain in full force and virtue.

R. C. JEFFERSON. [SEAL.]
JAMES KASSON. [SEAL.]

Sealed and delivered in presence of—
L. J. GATES.
O. T. MORRIS.

102 STATE OF MINNESOTA, } ss:
County of Ramsey, }

R. C. Jefferson and James Kasson, being each duly sworn, each for himself says that he is a freeholder of the State of Minnesota and has property of the value of fifty thousand dollars over and above his debts and exemptions.

R. C. JEFFERSON.
JAMES KASSON.

Subscribed and sworn to before me this 29th day of April, 1898.
[NOTARIAL SEAL.]
L. J. GATES,
Notary Public, Ramsey Co., Minn.

Approved by—
WM. LOCHREN, *Judge.*

Upon filing the writ of error referred to above the same may act as a supersedeas in said action.

WM. LOCHREN, *Judge.*

(Endorsed:) Supersedeas bond on writ of error. Filed August 1st, 1898. Henry D. Lang, clerk.

103 And thereafter, on the same day, the following writ of error was issued out of and under the seal of said court, as follows, to wit:

104 UNITED STATES OF AMERICA, ss:

The President of the United States to the honorable judges of the circuit court of the United States for the district of Minnesota, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in said circuit court, before you or some of you, between Washington County, State of Minnesota, claimant, and James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, defendant, which proceedings in the said court are entitled "In the matter of the estate of Sophia M. Bristol, deceased; *In re* claim of Washington County, Minnesota," a manifest error hath happened, to the great damage of the said defendant, James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, as by his complaint appears, we, being willing that error, if any hath been, should be corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you that, if judgment be therein given, *that* then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on or before thirty (30) days from the date hereof, in the said Supreme Court, that, the record and proceedings aforesaid being inspected, said Supreme Court may cause further to be done therein to correct that error what of right

and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of said Supreme Court, this 1st day of August, in the year of our Lord one thousand eight hundred and ninety-eight.

[Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.]

105 HENRY D. LANG,
Clerk of the Circuit Court of the United States,
District of Minnesota.

Allowed by—
WM. LOCHREN,
Judge of the District Court of the United States,
District of Minnesota.

106 [Endorsed:] Entered. 1096. E. Law. U. S. circuit court, district of Minnesota, third division. James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, plaintiff in error, *vs.* Washington County, Minnesota, defendant in error. Writ of error from U. S. Supreme Court. Filed August 1st, 1898. Henry D. Lang, clerk.

107 UNITED STATES OF AMERICA, *ss:*

To Washington County, State of Minnesota, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, at Washington, within thirty (30) days from the date hereof, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Minnesota, third division, wherein James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error and against the estate of Sophia M. Bristol, deceased, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this the 1st day of August, in the year of our Lord one thousand eight hundred and ninety-eight.

WM. LOCHREN,
Judge of the District Court of the United States, District of Minnesota.

Due service of the above citation is hereby admitted this 1st day of August, A. D. 1898.

CLAPP & MACARTNEY,
L. L. MANWARING,
Attorneys for Washington County, State of Minnesota.

108 [Endorsed:] Entered. 1096. E. Law. U.S. circuit court, district of Minnesota, third division. James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, plaintiff in error, *vs.* Washington County, Minnesota, defendant in error. Citation. Filed August 1st, 1898. Henry D. Lang, clerk.

109 UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE UNITED STATES, *District of Minnesota,* } *ss.*:

I, Henry D. Lang, clerk of said circuit court, do hereby certify and return to the honorable the Supreme Court of the United States that the foregoing, consisting of 109 pages, numbered consecutively from 1 to 109, inclusive, is a true and complete transcript of the records, process, pleadings, orders, final judgment, and all other proceedings in said cause and of the whole thereof, as appears from the original records and files of said court; and I do further certify and return that I have annexed to said transcript and included within said paging the original citation, together with the proof of service thereof.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Saint Paul, in the district of Minnesota, this fourth day of August, in the year of our Lord one thousand eight hundred and ninety-eight, and of the Independence of the United States the one hundred and third year.

Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.

HENRY D. LANG, *Clerk.*

[Ten-cent U. S. internal-revenue stamp, canceled 8, 4, '98. H. D. L.]

Endorsed on cover: Case No. 16,940. Minnesota C. C. U. S. Term No., 109. James Bristol, as executor of the last will and testament of Sophia M. Bristol, deceased, plaintiff in error, *vs.* Washington County, State of Minnesota. Filed August 15th, 1898.